

AGENDA REQUEST
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA


Meeting Date 9/19/06	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 5px; text-align: center;"> Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </td> <td style="width:50%; padding: 5px; text-align: center;"> Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </td> </tr> </table>	Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Agenda Item Number F-4
Open Agenda <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Time Certain Request <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

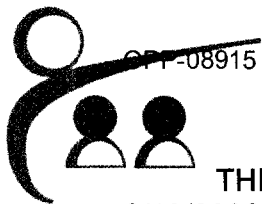
TITLE:	<p>License Agreement with Edusoft Corporation to purchase the Assessment Management System and Internet-based instructional tools</p>												
REQUESTED ACTION:	<p>Approve the License Agreement with Edusoft Corporation for the Assessment Management System and Internet-based instructional tools at Fort Lauderdale High School.</p>												
SUMMARY EXPLANATION AND BACKGROUND:	<p>Fort Lauderdale High School's administrators and teachers have selected Edusoft's Management System, benchmark assessments and Internet-based instructional resources to assist students improve their academic performance. Administrators and teachers will access test results online, analyze student performance data, and quickly access re-teaching materials and resources to improve student achievement.</p>												
SCHOOL BOARD GOALS:	<p><input checked="" type="checkbox"/> •Goal One: All students will achieve at their highest potential. <input type="checkbox"/> •Goal Two: All schools will have equitable resources. <input type="checkbox"/> •Goal Three: All operations of the school system will demonstrate best practices while supporting student achievement. <input type="checkbox"/> •Goal Four: All stakeholders will work together to build a better school system.</p>												
FINANCIAL IMPACT:	<p>The financial impact to the school district shall not exceed \$15,650. The source of funds is the Magnet Schools Assistance Program Grant (MSAP) budget for 2006-2007. There is no additional financial impact to the school district.</p>												
EXHIBITS: (List)	<p>1. License Agreement with Edusoft Corporation</p>												
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%; padding: 10px; text-align: center; font-size: 1.2em;">APPROVED</td> <td style="width:20%;"></td> </tr> <tr> <td colspan="2" style="padding: 5px; font-size: 0.8em;">(For Official School Board Records' Office Only)</td> </tr> </table>	APPROVED		(For Official School Board Records' Office Only)		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2" style="padding: 5px;">SOURCE OF ADDITIONAL INFORMATION:</td> </tr> <tr> <td style="padding: 5px;">Frank Vodolo</td> <td style="padding: 5px; text-align: right;">754-321-2130</td> </tr> <tr> <td style="padding: 5px;">Leona Miracola</td> <td style="padding: 5px; text-align: right;">754-321-2380</td> </tr> <tr> <td style="padding: 5px; font-size: 0.8em;">Name</td> <td style="padding: 5px; font-size: 0.8em;">Phone</td> </tr> </table>	SOURCE OF ADDITIONAL INFORMATION:		Frank Vodolo	754-321-2130	Leona Miracola	754-321-2380	Name	Phone
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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Curriculum & Instruction/Student Support
 Dr. Earlean C. Smiley, Deputy Superintendent

Approved in Open Board Meeting on: SEP 19 2006

By:  School Board Chair



EDUSOFT LICENSE AGREEMENT

THIS EDUSOFT LICENSE AGREEMENT (the "Agreement"), dated as of 9/19/2006 (the "Effective Date"), is made and entered into by and between Edusoft, a California corporation with a principal place of business at 208 Utah Street, 2nd Floor, San Francisco, CA 94103 ("Edusoft"), and The School Board of Broward County, Florida with a principal place of business at 600 Southeast Third Avenue, Ft. Lauderdale, FL 33301 ("SBBC").

RECITALS

- i. Edusoft offers a suite of Internet based assessment and instructional tools (collectively, the "Edusoft Platform"), which is accessible through the URL www.edusoft.com and other sites owned or operated by Edusoft and its affiliates (the "Edusoft Sites");
- ii. The parties desire to establish a relationship whereby SBBC licenses and uses the Edusoft Platform at Fort Lauderdale High School ("FLHS").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Edusoft and SBBC hereby agree as follows:

1. Edusoft Components and Services

A. Edusoft Platform. SBBC will be granted a license as described in Section 2 for the following components of the Edusoft Platform:

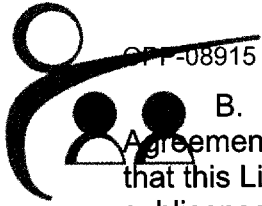
Edusoft Component	Included?
Benchmark Exams	Yes
Curriculum Management	No
State Analysis	No
Teacher Tools	No

Edusoft may also enable SBBC to utilize other functionality in the Edusoft Platform, as well as any additional content or software of Edusoft or its licensors ("Additional Content"), in all cases only when authorized pursuant to an Addendum or Schedule hereto.

B. Edusoft Services. Edusoft will provide SBBC with the support, planning, training and data integration services set forth in Section 5 and on Addendum 3.

2. Grant of License.

A. License. Subject to the terms and conditions of this Agreement, Edusoft hereby grants to SBBC a non-exclusive, non-transferable license to use the Edusoft Platform and any Additional Content according to Edusoft's directions and specifications (the "License") included in the documentation for the Edusoft Platform and Additional Content (collectively, the "Edusoft Materials").



B. License Limitations. All rights not specifically granted to SBBC under this Agreement are retained by Edusoft and its licensors. The parties understand and agree that this License does not include any right to and SBBC nor FLHS shall not sell or sublicense Edusoft Materials, services or documentation in whole or in part, to any third party or contest Edusoft's and its licensors' rights to the Edusoft Materials or related services or documentation.

3. Term. The term (the "Term") of this Agreement shall commence on the Effective Date and continue for one (1) year. Thereafter, the SBBC shall have the option to renew under the same terms, and at the same fees as set forth herein, for two (2) successive one-year periods by written agreement. SBBC shall give notice of its intention to renew forty-five (45) days prior to the conclusion of the Term. Should SBBC fail to renew the Agreement and thereafter seek to engage Edusoft after conclusion of the Term, SBBC shall no longer be entitled to receive the Fees set forth below.

4. Fees. In consideration of the licenses and services provided hereunder, SBBC shall pay Edusoft the following fees (collectively, "Fees"):

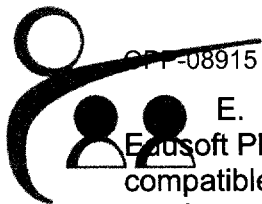
A. Annual License Fee to Edusoft. SBBC shall pay to Edusoft the per student annual license fee (to include Model 1: Benchmark Exams and ExamView All Users) ("License Fee") described under Addendum 2 multiplied by the Registered Student Number. At the Effective Date of this Agreement, the official Registered Student Number is set forth in Addendum 1. Accordingly, and subject to Section 4(B) below, the total License Fee shall be the License Fee multiplied by the Registered Student Number. Subject to an additional License Fee, additional Registered Students may be added by executing an Additional Services Order Form.

Term Periods	
Term 1	9/19/2006 – 9/18/2007
Term 2	9/19/2007 – 9/18/2008
Term 3	9/19/2008 – 9/18/2009

B. Timing. This License Fee for the first time period shall be paid no later than thirty (30) days following the Effective Date of this Agreement. All future License Fees will be paid not later than thirty (30) days following the beginning of the applicable time period.

C. Planning and Training Fee. SBBC shall pay to Edusoft the planning and training fee described under Addendum 2 ("Training and Planning Fees"). The Training and Planning Fees shall be paid not later than thirty (30) days following the Effective Date. Subject to an additional Training Fees, additional training may be provided by executing an Additional Services Order Form

D. Other Fees. SBBC shall pay to Edusoft the fees, if any, described under Addendum 2 or any subsequent addenda with regard to additional services to be provided by Edusoft ("Other Fees") for each of the schools listed in Addendum 1.



E. Scanning Devices. Edusoft does not supply scanners to use with the Edusoft Platform. SBBC is responsible for purchasing and installing scanners compatible with the Edusoft Platform. Edusoft will provide SBBC with the model numbers of compatible scanners and instructions for installing Edusoft's Grading Software.

5. Edusoft Technical and Customer Support and Training. Edusoft shall provide initial on-site training to SBBC, as further described on Addendum 3, at the fees described under Section 4 above. Edusoft shall provide the customer support and services designated on Addendum 2, as further described on Addendum 3, to a limited number of members of SBBC specified by SBBC who have participated in Edusoft's training session(s) provided hereunder. Edusoft shall provide Data Integration services to SBBC, as further described on Addendum 3.

6. Availability of the Edusoft Platform. Edusoft may experience website outages where the Edusoft Platform cannot be accessed. Edusoft will use reasonable efforts to make the Edusoft Platform available 24 hours per day, 7 days per week, except for downtime for scheduled and unscheduled maintenance, and will promptly investigate any technical problems that SBBC reports to Edusoft.

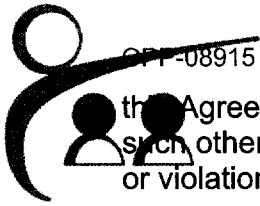
7. Passwords and Security. Edusoft will provide to SBBC a user name and password for every user of the Edusoft Platform. Users of the Edusoft Platform will be SBBC administration and teachers ("Permitted Users"). SBBC agrees at all times to maintain the confidentiality of all of its user names and passwords. SBBC agrees not to permit a third party other than Permitted Users to use the Edusoft Platform through its license. If there is any unauthorized use or access of any of SBBC's accounts, SBBC must immediately notify Edusoft of the security breach by email to help@edusoft.com.

8. Ownership Rights.

A. Edusoft's Ownership Rights. Edusoft or its licensors own all right, title and interest in and to (i) the Edusoft Materials, including the Edusoft Platform and any other software or content licensed hereunder, and the underlying methodology, software and the copyrightable structure of the organization thereof; (ii) any derivative works of the Edusoft Materials; (iii) the Edusoft Sites, and the underlying methodology and the copyrightable structure of the organization and presentation of the Site provided by Edusoft; and (iv) all Edusoft trademarks and other intellectual property incorporated therein. Edusoft and the Edusoft logo are trademarks of Edusoft; other trademarks are the property of their respective owners.

B. SBBC's Ownership Rights. SBBC owns all right, title and interest in and to SBBC's user information and student data, which includes, but is not limited to, student names, student demographic information, student assessment data from in-class, district benchmark and state tests, school and district names and data, district standards, teacher names, course names and data. Additionally, SBBC owns all right, title and interest in and to tests, test items, and item banks created solely by SBBC without incorporation of any Additional Content.

9. Representations and Warranties. Each party represents and warrants that (a) it is authorized, empowered, and able to enter into and fully perform its obligations under




the Agreement; (b) its performance of this Agreement, and the other party's exercise of such other party's rights under this Agreement, will not conflict with or result in a breach or violation of any of the terms or provisions or contribute a default under any agreement to which it is a party; and (c) it will comply with all applicable laws, regulations and code, of any governmental authority of competent jurisdiction in its performance of its obligations or exercise of its right under this Agreement.

10. Limitations of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY (INCLUDING FOR THE PURPOSES OF THIS SECTION 10, EDUSOFT'S LICENSORS) BE LIABLE TO THE OTHER PARTY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES (EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM THIS AGREEMENT OR BREACH HEREOF (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS; PROVIDED THAT THE FOREGOING DOES NOT LIMIT EITHER PARTY'S LIABILITY TO THE OTHER FOR (A) WILLFUL AND MALICIOUS MISCONDUCT; (B) DIRECT DAMAGES TO REAL OR TANGIBLE PERSONAL PROPERTY; (C) BODILY INJURY OR DEATH CAUSED BY NEGLIGENCE; OR (D) INDEMNIFICATION OBLIGATIONS HEREUNDER . TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR DAMAGES TO THE OTHER PARTY ARISING FROM THIS AGREEMENT OR FOR BREACH HEREOF IN EXCESS OF THE AMOUNTS PAID OR DUE TO EDUSOFT UNDER SECTION 4 IN THE TWELVE (12) MONTHS PRIOR TO THE DATE THE CLAIM AROSE. THE LIMITATIONS IN THIS SECTION SHALL NOT APPLY TO EITHER PARTY'S BREACH OF SECTION 14 OR 2(B) BUT SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, EVEN IF REPRESENTATIVES OF EITHER PARTY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Indemnification.

A. Indemnification by Edusoft. Edusoft, at no additional cost to SBBC, agrees to indemnify, defend, and hold SBBC, its officials, principals, agents, servants, and employees, harmless from any and all liabilities and expenses, including, without limitation, reasonable attorney's fees, expenses, costs, judgments, settlements, contract losses, or other costs to the extent arising out of or relating to any claim that the Edusoft Platform that infringes a United States patent in existence as of the date of the applicable delivery order, or a copyright or a trade secret of any third party. Edusoft will defend such claim at its expense and will pay any costs, damages and reasonable attorney's fees that may finally be awarded against SBBC. Notwithstanding the foregoing, Edusoft shall have no liability to SBBC, however, if the claim of infringement is caused by (1) SBBC's misuse or modification of the Edusoft Platform; (2) SBBC's failure to use corrections or enhancements provided to SBBC by Edusoft; (3) SBBC's distribution, marketing or use of the Edusoft Platform for the benefit of parties other than SBBC; (4) information, direction, specification or materials provided by SBBC; or (5) the combination of the Edusoft Platform with non-Edusoft products or services. If the Edusoft Platform or any component thereof is, or in Edusoft's opinion is likely to be held to be infringing, Edusoft shall at its expense and option either (a) procure the right for



SBBC to continue using it, (b) replace or modify it with a non-infringing equivalent that has no material adverse effect on the performance required by SBBC, or (c) terminate the license to the allegedly infringing component. The foregoing remedies constitute SBBC's sole and exclusive remedies and Edusoft's entire liability with respect to infringement. The foregoing indemnity is conditioned upon: prompt written notice by SBBC of any claim, action or demand for which indemnity is claimed; complete control of the defense and settlement thereof by Edusoft; and such reasonable cooperation by the SBBC in the defense as Edusoft may request.

B. Indemnification by SBBC. To the extent permitted by law, SBBC shall, at no additional cost to Edusoft, indemnify, defend, and hold Edusoft, its officers, directors, shareholders, principals, agents, servants, and employees, harmless from any and all liabilities and expenses, including, without limitation, reasonable attorney's fees, expenses, costs, judgments, settlements, contract losses, or other costs to the extent arising out of or relating to (1) SBBC's misuse or modification of the Edusoft Platform; (2) SBBC's failure to use corrections or enhancements provided to SBBC by Edusoft; (3) SBBC's distribution, marketing or use of the Edusoft Platform for the benefit of parties other than SBBC; (4) information, direction, specification or materials provided by SBBC; or (5) the combination of the Edusoft Platform with non-Edusoft products or services. The foregoing indemnity is conditioned upon prompt written notice by Edusoft of any claim, action or demand for which indemnity is claimed. Nothing herein shall be construed as a waiver of sovereign immunity or of rights related to SBBC by Section 768.28, Florida Statutes.

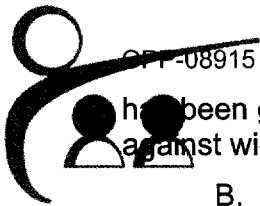
C. General Indemnification. To the extent permitted by law and subject to Section 768.28, Florida Statutes, each party agrees to be fully responsible for its acts of negligence, or it's agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

12. Choice of Law. This Agreement, its interpretation, performance or any breach thereof, shall be construed in accordance with, and all questions with respect thereto shall be determined by, the laws of the State of Florida applicable to contracts entered into and wholly to be performed within said state.

13. Press Releases. The parties may jointly prepare press releases concerning the existence of this Agreement and the terms hereof, in a format mutually agreed to by the parties.

14. Confidentiality. The parties may treat this and all agreements entered into by and between the parties as public data, subject to the following:

A. Disclosure of Confidential Information. Notwithstanding the foregoing, however, during the Term of this Agreement and thereafter, each party will use and reproduce the other party's Confidential Information only for purposes of this Agreement and only to the extent necessary for such purpose and will restrict disclosure of the other party's Confidential Information to its employees, consultants or independent contractors with a need to know and will not disclose the other party's Confidential Information to any third party without the prior written approval of the other party. Notwithstanding the foregoing, it will not be a breach of this Agreement for either party to disclose Confidential Information of the other party if required to do so under law or in a judicial or other governmental investigation or proceeding, provided the other party



has been given prior notice and the disclosing party has sought all available safeguards against widespread dissemination prior to such disclosure.

B. Definition of Confidential Information. As used in this Agreement, the term “Confidential Information” refers to student records, trade secrets, business plans, strategies, methods and/or practices, and any other information relating to either party or its business that is not generally known to the public, including but not limited to information about either party’s personnel, products, customers, marketing strategies, services or future business plans. Notwithstanding the foregoing, the term “Confidential Information” specifically excludes (i) information that is now in the public domain or subsequently enters the public domain by publication or otherwise through no action or fault of the other party; (ii) information that is known to either party without restriction, prior to receipt from the other party under this Agreement, from its own independent sources as evidenced by such party’s written records, and which was not acquired, directly or indirectly, from the other party; (iii) information that either party receives from any third party reasonably known by such receiving party to have a legal right to transmit such information, and not under any obligation to keep such information confidential; and (iv) information independently developed by either party’s employees or agents provided that either party can show that those same employees or agents had no access to the Confidential Information received hereunder.

C. Student Records. Notwithstanding anything to the contrary in this Agreement, student records and student information shall not be considered public data and shall not be disclosed to any third party without the prior written consent of SBBC; provided, however, Edusoft may use and disclose such information (including without limitation demographic information and assessment results data) in an aggregate format where data concerning individual students, teachers, schools or districts may not be identified or derived.

15. Non-Discrimination. During the performance of this Agreement, Edusoft shall not unlawfully discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, national origin, disability, sexual orientation, age, marital status or public assistance status. Edusoft will use reasonable commercial efforts to implement policies and procedures such that applicants are employed and that employees are treated during employment without unlawful discrimination because of their race, color, creed, religion, sex, national origin, disability, sexual orientation, age, marital status or public assistance status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

16. Worker Health, Safety and Training. Edusoft shall be solely responsible for the health and safety of its employees in connection with the work performed under this Agreement. Edusoft shall ensure all personnel of Edusoft are properly trained and supervised and, when applicable, duly licensed or certified appropriate to the tasks engaged in under this Agreement. Edusoft shall comply with federal, state and local occupational safety and health standards, regulations and rules promulgated pursuant to the Occupational Health and Safety Act which are applicable to the work to be performed by Edusoft.



7. Termination.

A. Mutual Termination Provisions. In addition to SBBC's right to terminate this Agreement following the one-year or two-year anniversary of the Effective Date or for convenience and without cause upon 30 days prior written notice, either party may terminate this Agreement (a) if the other party files a petition for bankruptcy, becomes insolvent, or makes an assignment for the benefit of its creditors, or a receiver is appointed for the other party or its business; or (b) upon the occurrence of a material breach of a material provision by the other party if such breach is not cured within thirty (30) days after written notice is received by the breaching party identifying the matter constituting the material breach.

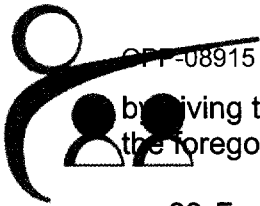
B. Effect of Termination. Upon the expiration or earlier termination of this Agreement, the parties shall immediately cease exercising any of the rights granted pursuant to this Agreement other than those that survive beyond this Agreement as stated below in Section 24. Except as provided in Section 24, all rights granted herein to each party shall immediately upon the expiration or earlier termination of this Agreement revert in full to the SBBC. Nothing contained herein shall limit any other remedies that either party may have for the default of the other party under this Agreement nor relieve either party of any of its obligations incurred prior to any expiration or termination of this Agreement.

18. Relationship of Parties. SBBC and Edusoft are independent contractors under this Agreement, and nothing herein will be construed to create a partnership, joint venture or agency relationship between them. Neither party has authority to enter into agreements of any kind on behalf of the other.

19. Assignment, Binding Effect. Neither Edusoft nor SBBC may assign this Agreement or any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other. Notwithstanding the foregoing, each party shall have the right to assign this Agreement to any successor to substantially all its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. Any purported assignment by either party other than as provided above shall be null and void. Subject to the foregoing, this Agreement shall be binding upon the successors and permitted assigns of each party.

20. Entire Agreement. This Agreement contains the entire understanding of the parties hereto with respect to the transactions and matters contemplated hereby, supersedes all previous agreements between the parties concerning the subject matter, and cannot be amended except by a writing signed by both parties. No party hereto has relied on any statement, representation or promise of any other party or with any other officer, agent, employee or attorney for the other party in executing this Agreement except as expressly stated herein.

21. Notice. Whenever under this Agreement one party is required or permitted to give notice to the other, such notice will be in writing and deemed given upon the earlier of delivery or five (5) calendar days after such notice is mailed by registered or certified United States mail, return receipt requested, postage prepaid, and addressed to the addressee at its address stated above. Either party may change its address for notice



by giving the other party advance written notice of the new address in conformity with the foregoing and the date upon which such new address will become effective.

22. Force Majeure. Neither party shall be liable for any delays or other failures to perform resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, website outages, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

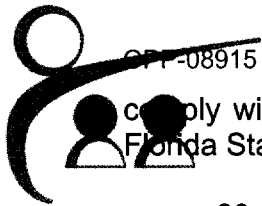
23. Counterparts and Facsimile Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Facsimile signatures will be considered original signatures.

24. Survival. The following provisions shall survive any expiration or termination of this Agreement: Sections 8-12, 14, and 17-27, and any accrued but unpaid payment obligations.

25. Severability. If any of the provisions of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable under any applicable statute or rule of law, such provision shall, to that extent, be deemed omitted, and the remaining portions of this Agreement shall remain in full force and effect.

26. Waiver. The waiver of one breach or default or any delay in exercising any rights shall not constitute a waiver of any subsequent breach or default. **U.S. Government Restricted Rights.** The Edusoft Platform and related materials are commercial products, developed at private expense, and provided with restricted rights. Use, reproduction, release, modification or disclosure of the Edusoft Platform and related materials, or any part thereof, including technical data, by the United States Government is restricted in accordance with Federal Acquisition Regulation ("FAR") 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7202 for military agencies

27. Background Screening: Edusoft agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of Edusoft or its personnel providing any services under the conditions described in the previous sentence. Edusoft shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to Edusoft and its personnel. The Parties agree that the failure of Edusoft to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. Edusoft agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in Edusoft's failure to



comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes.

28. Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To Edusoft:

Name to be Provided by Other Party

Address

Address

With a Copy to:

Name to be Provided by Other Party

Address

Address

To SBBC:

Superintendent of Schools
The School Board of Broward County
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to:

Dr. Gina Eyerman
Principal, Fort Lauderdale High School
1600 Northeast Fourth Avenue
Fort Lauderdale, Florida 33305



IN WITNESS WHEREOF, Edusoft and SBBC have signed and executed this Agreement on the Effective Date by their authorized representatives, in duplicate.

EDUSOFT, Licensor

By: Ed Wierman

Printed Name: Ed Wierman

Title: V.P. Business Development & Finance

Date: 8/25/2006

FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

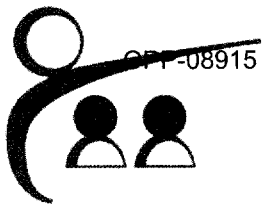
By Benjamin J. Williams
 Benjamin J. Williams, Chair

ATTEST:

Franklin L. Till, Jr.
 Superintendent of Schools

Approved as ~~to~~ Form:
School Board Attorney

(PLEASE FOLD BACK TO EDUSOFT LICENSE AGREEMENT)

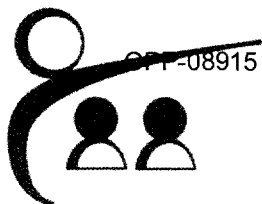


**ADDENDUM 2
FEE CALCULATION**

Product	Product Code	Quantity	Unit Price	Total Price	Billing Frequency
New License: Module 1: Benchmark Exams	E40712	1,200	\$5.25	\$6,300.00	Annually recurring fee.
New License: ExamView All Users	E41006	1,200	\$0.50	\$600.00	Annually recurring fee. FSCreations' Learning Series products are provided by Edusoft subject to the terms and conditions of the ExamView Learning Series Question Bank License Agreement enclosed with the Learning Series products.
ExamView Learning Series Item Bank	E40719	1,200	\$3.00	\$3,600.00	Annually recurring fee.
Training, Planning & Development	E40721	1	\$200.00	\$200.00	One time fee
Training	E40721	11	\$450	\$4,950.00	One time fee

Term 1 Total	\$15,650.00
Term 2 Total	Sum of recurring fees* ; services designated for term 2
Term 3 Total	Sum of recurring fees* ; services designated for term 3

* If in future years the enrollment is different than the enrollment specified in Addendum 1, the License Fee will be appropriately changed.



ADDENDUM 3

CUSTOMER AND TECHNICAL SUPPORT AND SERVICES

SCHEDULE A

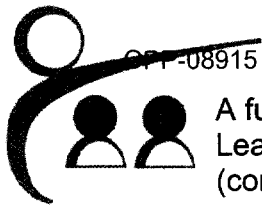
CUSTOMER SUPPORT AND SERVICES

Edusoft provides access to the following Customer Services. Standard services are included in the License Fee and include:

- Edusoft Customer Service – Professional support team available to the contacts listed on Addendum 4 via internet, telephone or e-mail from 5 am to 6 pm PST, Monday through Friday, excluding holidays.
- Edusoft Data Integration Services – Initial Customer setup and data loading, ongoing roster and demographic updates, and customer support for data-related questions. See Schedule B for detailed information on Data Integration service levels.
- Access to Edusoft’s database of information regarding best practice strategies from districts across the country, including specific implementation plans and white papers on success factors for implementing assessment programs and driving instructional change.

Certain specialized services are available at a fixed price paid at inception (as detailed in Addendum 2). Additional services can be purchased at Edusoft’s then-current rate through the execution of an Additional Services Order Form. These services include, but are not limited to:

- Edusoft Implementation Management – Edusoft implementation specialists work with Customer in the implementation of their accountability program. This service will help identify the risks and success factors that accompany district-wide change management through:
 - Planning sessions
 - Completion of a Needs Assessment process.
 - Delivery of an Implementation Plan
 - Ongoing status phone calls
 - Year II/III planning session
- Edusoft Training Program – Provided by an Edusoft Account Manager in a train-the-trainer model to audiences of approximately 15 (no more than 20) educators per session. Training follows Edusoft’s standard curriculum; minor modifications may be made through the Edusoft Account Manager. Includes an agenda (curriculum), hands-on exercises, and a printed or electronic Training Guide.



A full training day typically lasts between 4-6 hours for onsite training. Distance Learning sessions are an hour long, with no more than 5 connections (connections defined by access locations—total number of participants is approximately 15). The Edusoft Account Manager will provide detailed information on the technical requirements for the training sessions.

The number of training sessions is determined through consultation with Customer. Edusoft's recommendation for initial implementation services is listed in Addendum 2.

Additional training sessions can be purchased as needed through the Edusoft Account Manager, or Account Executive working with the district.

The following policies apply to Edusoft Customer Services:

Training Cancellation

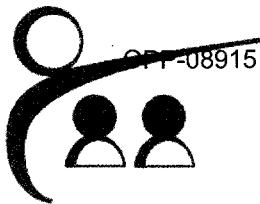
- Customer will be charged ½ of training fees for any training session cancelled within 5 business days of the scheduled training.

Travel Expense

- Customer will pay for any travel-related costs for on-site services or training that are in excess of \$500 per day, per Edusoft's standard travel policy. However, in no event shall Customer pay travel expenses in excess of the sums allowable under School Board Policy 3400.

Implementation Timeframes

- Although commitments on timeframe for implementations cannot be made pending completion of a district's Needs Assessment, on average, between six and eight weeks is required to complete the initial district launch. This time period is measured from the time a valid contract is signed by the customer and processed at Edusoft. Longer implementation periods may be required based upon the size and scale of the district, the complexity of the program, and the quality of the district's student data.



SCHEDULE B

DATA INTEGRATION SERVICES

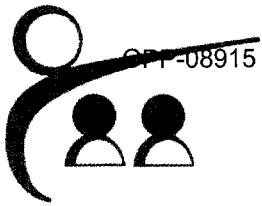
Edusoft offers two Data Integration service levels (defined by frequency of roster updates) to customers; the Standard Service Level for Data Integration will provide 12 updates annually; the Premium Service Level for Data Integration will provide 24 updates annually. The Edusoft Data Integration Lead will work with the customer's SIS contact set forth Addendum 4 to:

- Ensure data requirements are understood by the customer and to establish a query that extracts roster and demographics data from the customer's SIS.
- Determine school names and codes, course term selections, and demographic code mappings for setting up a customer's account in Edusoft.
- Review raw customer data using proprietary validation tool to ensure accuracy before being loaded into Edusoft.
- Write custom algorithms for matching student and teacher identifiers across years and data types.
- Perform quality assurance process with the customer's Edusoft data.
- Use automated verification tools to compare raw customer data submitted with the Edusoft production data and to correct data matching issues as needed.
- Determine an appropriate timeline for submitting roster and demographic updates, as often as every two weeks, depending on service level, and/or in accordance with the customer's benchmark calendar.
- Streamline the data submission process, answer data-related questions from customer staff and work with customer staff to identify and resolve data concerns.

All customers are provisionally assigned to Standard Service Level. Edusoft will provide the following tools and assistance to determine if a customer can qualify for Premium Service at no additional charge:

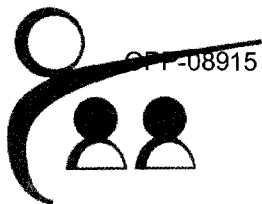
- Detailed guidelines, including examples, best practices & file formats used by Edusoft to upload data into our system.
- The automated Edusoft Data Validator allowing customer to evaluate, clean, and classify its own data prior to submission to Edusoft.

Edusoft's determination as to qualification for Premium Service is conclusive, but customer may seek re-classification in the future based on changes to its data practices or for an additional fee.



DATA QUALITY SERVICE LEVEL DEFINITIONS:

Service Level Yearly Update Frequency	Standard Service Level 12 Updates/Year	Premium Service Level 24 Updates/Year
Student IDs	<ul style="list-style-type: none"> • Unique within school, non-unique within district. • May be recycled from year to year. 	<ul style="list-style-type: none"> • Unique within district. • Non-recycled.
Teacher IDs	<ul style="list-style-type: none"> • Unique within school, non-unique within district. • May be recycled from year to year. 	<ul style="list-style-type: none"> • Unique within district. • Non-recycled.
Data Structure & Consistency	<ul style="list-style-type: none"> • Individual school roster files provided. • File format or field formats may not be consistent between updates and files often require manipulation prior to loading. 	<ul style="list-style-type: none"> • Multi-school roster files provided for each school-term in the district. • File format and field formats are consistent between updates and files can be loaded as received (e.g. Course titles must be consistent within a term. Teacher name fields should remain in a consistent format).



ADDENDUM 4

SBBC CONTACT INFORMATION

Please fill in the names and contact information below, so that the Edusoft Client Services team can contact appropriate members of your district. If contact is the same for multiple, please just write "same as above".

Main Implementation Contact(s)	
<i>This is the person who will be the default contact for our Account Manager to talk to about general implementation and rollout of the Edusoft Platform.</i>	
Name	
Title	
Phone #	
Email	

Training Contact(s)	
<i>This is the person who will be the default contact for our Account Manager to talk to about planning who will be trained and organizing and scheduling these trainings.</i>	
Name	
Title	
Phone #	
Email	

Assessment Data Contact(s)	
<i>This is the person who will be the default contact for our Data Services Team to talk to about getting the electronic data from your State tests.</i>	
Name	
Title	
Phone #	
Email	

Student Information System Contact(s)	
<i>This is the person who will be the default contact for our Data Services Team to talk to about getting your Roster Files initially and ongoing for Roster Updates.</i>	
Name	
Title	
Phone #	
Email	

Purchasing Contact(s)	
<i>This is the person who will be the default contact for our Client Services Team to talk to about billing and payment issues.</i>	
Name	
Title	
Phone #	
Email	