

## **MORNINGSIDE COLLEGE STUDENT NOTEBOOK COMPUTER AGREEMENT**

THIS AGREEMENT IS MADE AND ENTERED INTO THE DATE HEREAFTER WRITTEN BY AND BETWEEN MORNINGSIDE COLLEGE, 1501 MORNINGSIDE AVENUE, SIOUX CITY, IOWA, HEREINAFTER REFERRED TO AS "COLLEGE" AND THE STUDENT WHO SIGNS THE SAME, HEREINAFTER REFERRED TO AS "STUDENT".

### **A. PURPOSE**

The purpose of this agreement is to explain the rights, duties, responsibilities and obligations of STUDENT and COLLEGE in regards to the use of a notebook computer plus associated peripherals and software assigned to STUDENT. Newly enrolled full-time (12 credit hours or more) students of COLLEGE will receive a notebook computer for their personal use and potential ownership under the terms and conditions of this agreement.

STUDENT will obtain the computer equipment and assume all of the rights, duties, responsibilities and obligations attendant with the use and operation of this equipment under the terms contained in this computer use agreement and subject to the approval of COLLEGE.

STUDENT and COLLEGE, in consideration of mutual covenants and promises hereafter set forth, agree as follows:

### **B. COLLEGE RIGHTS, OBLIGATIONS AND DUTIES**

1. **EQUIPMENT PROVIDED**: COLLEGE will provide a notebook computer and specified software.
2. **TITLE TO EQUIPMENT**: COLLEGE agrees that it shall retain a leasehold ownership interest of said computer and equipment until the terms and conditions of this agreement are fulfilled by STUDENT and upon student fulfilling such terms and conditions, a Bill of Sale shall be delivered by COLLEGE to STUDENT.
3. **SOFTWARE AND SYSTEM**: The Operating System and Application Software will be licensed under the College's Microsoft Campus Agreement. The Campus Agreement is subscription based and will expire one year after STUDENT graduates COLLEGE. If STUDENT acquires the notebook computer without graduating, the STUDENT will be informed of his/her obligation to buy individual subscriptions for his/her software.
4. **INSPECTION**: COLLEGE has and reserves the right to inspect the computer and software together with other related equipment at all reasonable times and places on prior advance notice.
5. **RIGHT TO POSSESSION**: COLLEGE by retaining ownership, reserves the right to take possession of and/or repossess the equipment upon STUDENT'S default under the terms of this agreement or upon STUDENT'S violation of any of the other terms and conditions set forth in this agreement. The COLLEGE reserves the right to have the assigned computer returned to the COLLEGE at any time for non-payment of any COLLEGE financial obligations.

6. **INFRINGEMENT:** COLLEGE does not assume, nor will it be responsible for any trademark, copyright or patent infringement caused by STUDENT'S unauthorized use, copying of or pirated use of computer equipment or software.
7. **NON-LIABILITY FOR EQUIPMENT:** COLLEGE shall not be liable to STUDENT for any damages, direct or indirect, resulting from or related to any failure of the hardware or software covered under the terms of this agreement including, but not limited to, loss of data, transmittal delays, or indirect, special or consequential damages resulting from STUDENT'S use of this equipment.
8. **WARRANTY DISCLAIMER:** COLLEGE DISCLAIMS ALL WARRANTIES WITH REGARD TO THE EQUIPMENT AND SOFTWARE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WARRANTIES, IF ANY, WILL COME FROM THE MANUFACTURERS OF THE COMPUTER EQUIPMENT AND SOFTWARE ONLY.
9. **SUPPORT SYSTEM:** COLLEGE agrees to maintain a department responsible for the maintenance and administration of the computers and networks.
10. **ARBITRATION:** COLLEGE agrees that any disputes regarding this agreement or its provisions will be submitted to binding arbitration under the provisions of Chapter 496A of the 1993 Code of Iowa, as amended, upon request of either party, and the law of the State of Iowa will apply.
11. **CONFIGURATION AND TRANSFER:** COLLEGE agrees to configure the computer and transfer physical possession of it to the STUDENT at the beginning of their first full-time semester.
12. **PRINTING:** COLLEGE agrees to provide printing stations for STUDENT'S use with COLLEGE charging a nominal fee to defray cost of the printing and supplies.
13. **SUMMER AND SEMESTER BREAK USE:** STUDENT will be allowed to take Notebook computer with them over the semester breaks if they are current on their Student account and have registered for the next Spring / Fall semester, at full time status.
14. **SUMMER AND SEMESTER STORAGE:** For those STUDENTS who do not qualify based on the conditions noted in section B (13) above, or do not wish to bring their computer with them over the break, the COLLEGE agrees to provide secure facilities for the storage of the computer equipment during that time and to provide STUDENT a storage receipt.

### **C. STUDENT'S RIGHTS, OBLIGATIONS AND DUTIES**

1. **OWNERSHIP ACQUISITION:** COLLEGE will transfer ownership to STUDENT after STUDENT has completed eight (8) consecutive full-time semesters at COLLEGE and has no outstanding financial obligations.
2. **PURCHASE OPTION:** STUDENT who withdraws from COLLEGE before completing eight (8) full-time semesters may purchase their notebook computer for an amount equal to the greater of either the buy-out amount remaining on the computer lease or \$300. Payment must be made in cash.

3. **CHANGE IN ENROLLMENT STATUS:** STUDENT acknowledges that the computer is provided for use only while he/she remains a full-time student at the College. If STUDENT ceases enrollment as a full-time student or is enrolled for less than 9 hours during a semester, STUDENT will return the computer and all its components to the Technology Services Center located in the lower level of the Olsen Student Center **immediately** at the time of enrollment status change or exercise the purchase option as noted in section C (2). On or before the last day of the semester that ends STUDENTS' full-time enrollment at the COLLEGE, STUDENT will return the computer and all its components to the Technology Services Center located in the lower level of the Olsen Student Center or exercise the purchase option as noted in section C (2). The computer will be returned in the same condition as on the agreement date of issue, reasonable wear and tear excepted. If STUDENT fails to return the computer and all its components by the due date, or fails to exercise the purchase option as noted in section C (2), the COLLEGE may treat this as a loss. STUDENT realizes this may result in STUDENT being subject to criminal prosecution and / or civil liability. STUDENT also understands that it is their responsibility to give notice to the College's Registrar if STUDENT has an address change.
4. **LIABILITY FOR DAMAGE:** STUDENT acknowledges that the computer is in new condition except as noted below in section C. (6), and that STUDENT is responsible for any future damage to the computer. The STUDENT agrees to promptly inform the COLLEGE of damage to the computer. In the event of any type of physical damage to the computer, STUDENT agrees to make a cash payment of \$200 per occurrence, to the COLLEGE before the unit is sent in for repair. In addition, STUDENT agrees to pay the cost of any repairs not covered by the manufactures warranty. STUDENT acknowledges that he/she will be responsible for the full cost of repairing the computer if the COLLEGE determines that the damage was the result of negligent abuse. Tampering with or opening the case on the notebook will be considered negligent abuse. Changing or altering the BIOS password will be considered negligent abuse. The STUDENT agrees to a \$200 fine if after two years there is excessive wear and tear on the unit to be determined by an appraisal from the COLLEGE. Examples of wear and tear may include, but not limited to, painting or etching on the cases. The COLLEGE reserves the right to periodically verify the condition of the computer. COLLEGE reserves the right to withhold providing a transcript to the STUDENT and/or shall conduct appropriate credit reporting and undertake such other collection efforts as it may deem appropriate.
5. **LIABILITY FOR LOSS:** STUDENT agrees to promptly inform the COLLEGE of loss of the computer. In the event of a loss STUDENT agrees to cooperate with the COLLEGE in filing a police report and to fully cooperate in any ensuing investigation. STUDENT understands that he/she is totally responsible for the loss. STUDENT acknowledges that he/she may be responsible for the full cost of replacing the computer.
6. **TRANSFER / READMITTED STUDENTS:** If STUDENT is considered a transfer student or a readmitted student, STUDENT may receive a refurbished notebook computer in which case STUDENT will receive the appropriate semesters credit (based on the age of the computer) towards meeting the requirement of ownership acquisition as noted in C. (1).
7. **INSURABLE INTEREST:** STUDENT, by reason of this agreement, acquires an insurable interest in the equipment and has the obligation to insure such equipment.
8. **SUMMER AND SEMESTER BREAK STORAGE:** STUDENT who does not qualify to take their computer with them over the summer or semester break based on the conditions noted in section B (13), or chooses to leave their computer at the College during the summer or semester break agrees to be responsible for checking the computer in to the designated storage facility at the end of each semester as directed by COLLEGE staff.

9. **ILLEGAL ACTS:** STUDENT agrees not to violate any Federal, State, or Local laws relating to the use of the computer, including but not limited to trademark, copyright, or patent laws.
10. **MODIFICATIONS:** STUDENT may legally obtain appropriate software compatible with the computer that the STUDENT may install for his/her personal use and enjoyment at STUDENT'S discretion. If STUDENT'S assigned computer becomes inoperable as a consequence of STUDENT'S hardware and/or software modifications, COLLEGE'S obligation will be limited to restoring the computer to its original hardware and software configuration.
11. **INFRINGEMENT:** STUDENT agrees not to make any unauthorized copies of software or data, as provided by the COLLEGE.
12. **INDEMNITY:** STUDENT agrees to indemnify and hold COLLEGE harmless from any problems resulting in transmittal delays, loss of data, failure of software product and any other related problems caused by STUDENT'S negligence, use or abuse of the equipment or software system. STUDENT agrees to accept the computer "as is." In no event shall the College be liable to STUDENT or their guardian, personal representative, or heirs for any incidental, special, indirect or consequential damage of whatever nature arising out of any claim, whether in contract, tort or otherwise, alleging the College's failure to perform its obligations under this Agreement or its breach of any duty, common law or otherwise, owed to STUDENT.
13. **FEES:** STUDENT will be charged a technology fee each semester. After the first two years, STUDENT may be charged \$10 a day late penalty fee when overdue turning in the two-year old computer they are not purchasing prior to picking up the new refresh notebook computer in August.
14. **ARBITRATION:** STUDENT agrees that any disputes regarding this agreement or its provisions will be submitted to binding arbitration pursuant to the provisions of Chapter 679A of the 1993 Code of Iowa, as amended, and the law of the State of Iowa will apply.
15. **MISCELLANEOUS PROVISIONS:**
  - A. By clicking on the box, "I accept", STUDENT acknowledges receipt, acceptance, and understanding of the Morningside College Student Notebook Computer Agreement, Computer Ethics and Network Acceptable Use Policy, and the Microsoft Campus License Agreement and agrees to abide by the provisions set forth in those agreements. STUDENT'S Digital Signature will be kept on file with electronic storage of the Date and Time Stamp of acceptance of the agreement.
  - B. If any one of the paragraphs of this agreement is determined to be invalid or unenforceable, the balance of the contract shall remain enforceable.
  - C. Paragraph captions are for ease of reference only and are not to be interpreted as a part of the agreement.
  - D. STUDENT shall not permit any other person to possess the computer or the software.
  - E. STUDENT shall not sell, lease, or otherwise grant anyone rights to the computer or the software.