



THE SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA

MATERIALS MANAGEMENT DEPARTMENT

101 OLD VENICE ROAD

OSPREY, FLORIDA 34229

TELEPHONE (941) 486-2183 • FAX (941) 486-2188

MEMORANDUM

**TO: Members of the School Board
Dr. Gary Norris, Superintendent
Mr. Scott Lempe, Associate Superintendent**

FROM: Pat Black, CPPB, Director of Materials Management

TITLE: APPROVAL TO PURCHASE TECHNOLOGY EQUIPMENT

The Technology and Information Services Department and the Shared Professional Services Department request permission to purchase ActivBoard+2 equipment from Logical Choice Technologies, Inc. The contract and pricing for these services will be effective from date of award until December 31, 2007, for a minimum volume of 2,600 units and a maximum volume of 3,300 units. The project allows for an ActivBoard and projector for each instructional classroom and installation will be completed over a two year period. Phase I of the project will allow for installation of 1,052 units in 35% of the classrooms for a cost of \$4,073,600.00. The potential total contract cost is a minimum of \$10,400,000.00 to a maximum of \$13,200,000.00. The equipment is contained on the District's 'Audio Visual and Video Equipment' bid. Staff training will be coordinated by the Office of Instructional Technology and the Professional Development Department. The funds for these purchases are contained in the capital budget allocated to the Technology and Information Services Department.

Requested by:
Brad Schuette

"Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the protest bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Posting Date: 11-14-06

Fiscal Impact:

Not to exceed
\$13,200,000.00

Funding:

Capital

Recommended Motion: That the contract between the School Board of Sarasota County and Logical Choice Technologies, Inc., to purchase ActivBoard equipment and peripherals in an amount not to exceed \$13,200,000.00, be approved as presented.

LOGICAL CHOICE TECHNOLOGIES, INC.
TERMS AND CONDITIONS

These TERMS AND CONDITIONS, along with any exhibit annexed hereto (collectively, the "Agreement"), are a binding legal agreement by and between Logical Choice Technologies, Inc. ("LCT"), a Georgia corporation with its principal place of business at 3355 Breckinridge Boulevard, Suite 200, Duluth, Georgia 30096, and _____, a [[entity type]] with its principal place of business at _____ ("Buyer" or "You").

Please carefully read the terms and conditions of this agreement before installing or utilizing the equipment (as defined below). By installing and using the equipment, you indicate your acceptance of these terms and conditions and your willingness to be legally bound under this agreement. If you do not agree to be bound by this agreement, do not install or use the equipment, and promptly return the equipment to LCT at the address listed above within seven (7) days, along with all documentation and other materials enclosed herewith for a full refund of all amounts paid by you in connection with the equipment, less shipping and handling charges. The parties further acknowledge and agree that this is an agreement and transaction "between merchants" as defined under the uniform commercial code, and is not a consumer transaction.

1. EQUIPMENT.

1.1 Purchase and License. Subject to the terms and conditions hereof, Buyer hereby purchases the Hardware and related materials and licenses the Software listed on **Exhibit A** hereto, and purchases the LCT services listed on the Statement of Work listed on **Exhibit B** hereto. Pricing shall be good for a term of Nov 1, 2006 until Dec 31, 2007 for a minimum volume of 2600 classrooms and a maximum of 3300.

1.2 Payment. The Equipment shall be sold and/or licensed, as applicable, at the price set forth on **Exhibit A**, payable within 30 days of Your receipt of the Equipment. Installation and other services described on **Exhibit B** shall be invoiced on the same terms as rendered from time to time following delivery and acceptance of Equipment. Any amount not paid when due shall accrue interest at the rate of 1 1/2% per month until paid. Buyer will not setoff or offset against LCT invoice amounts that Buyer claims are due it.

1.3 Security for Purchases. Buyer grants to LCT a purchase money security interest in all Equipment sold to Buyer which has not yet been paid for in order to secure payment to LCT of all of Buyer's indebtedness to LCT under this Agreement. Buyer shall execute all documents deemed necessary by LCT to evidence, perfect, and/or renew this security interest. Payment in full of the purchase price of all Equipment shall release LCT's security interest on such Equipment.

1.4 Title to Hardware. LCT covenants and warrants to Buyer that LCT has and shall have all rights, titles, licenses, permissions and approvals necessary to sell the Hardware. The Hardware shall be new and in working order at the time of delivery by LCT or its agents or contractors to a third-party carrier for shipment to Buyer. LCT warrants with regard to the Hardware that the Hardware will be owned by LCT free and clear of any and all liens, claims and encumbrances on the delivery date, and that LCT will transfer title to the Hardware, free and clear of any and all liens, claims and encumbrances, upon payment of the applicable purchase price.

1.5 Maintenance of Equipment. LCT shall not perform support and maintenance services for the Equipment, other than warranty support for the applicable warranty period described in Equipment packaging.

1.6 Delivery and Installation of Equipment. LCT will deliver the Equipment to the location and on the delivery date set forth on **Exhibit A**, F.O.B. as specified in **Exhibit A**. Without limitation on the foregoing, LCT shall provide Buyer with all instruction manuals and other documentation available to enable Buyer to properly use the Equipment. Buyer may make a reasonable number of copies of all manuals and other documentation provided by LCT for use solely in accordance with the terms of the Agreement. In so doing, Buyer agrees that any copyright and other proprietary notices on such manuals and other documentation will be reproduced.

2. SOFTWARE.

2.1 License to Third-Party Software. All third-party software that is provided by LCT pursuant to a shrink-wrap license agreement, as may be found in or on the container in which such software is packaged or otherwise provided with a license from the third-party owner, shall be subject to the license terms and conditions that are set forth therein. See **Exhibit C**.

2.2 Restrictions on Use. Buyer agrees that it will not, nor permit any third party(ies) to, in whole or in part: (a) disassemble or reverse engineer the Hardware; (b) copy or otherwise reproduce the Hardware; (c) except as expressly authorized herein, remove, modify or otherwise tamper with notices or legends on the Hardware; or (d) create derivative works from, adapt, modify, change, improve, or enhance the Hardware.

2.3 Ownership and Reservation of Rights. Title to all proprietary rights in software included in the Equipment shall at all times remain vested in its owner.

3. THIRD-PARTY WARRANTIES; DISCLAIMER.

3.1 Third-Party Warranties. All Hardware and Software components of the Equipment are originally manufactured by third parties, and Buyer shall only be entitled to warranties, if any, as allowed by the manufacturers of such components. Limited warranty statements from the original manufacturers of certain components of the Equipment may be shipped with the Equipment and pass through to the Buyer. LCT may, in some instances, provide service under such warranties pursuant to such agreement as LCT may have with such third-party manufacturer. See **Exhibit D**.

3.2 Warranties Void. Third-party warranties may be void if any Equipment damage has resulted from accident, abuse, misapplication, misuse, or failure to use the Equipment in strict accordance with documentation, user manuals or other instructions, or service or modification by someone other than LCT or the manufacturer.

3.3 Buyer's Representations and Warranties Buyer warrants, represents and covenants that: (i) prior to using the Equipment, it will read all instructions, manuals and warnings applicable to the Equipment; (ii) the Equipment will be used in accordance with applicable instructions, manuals and warnings; and (iii) the Equipment will only be installed, operated and handled by Buyer's contractors or employees who are qualified in the operation of like equipment and who have been properly trained in the use of the Equipment and advised of all applicable warnings and instructions BUYER ACKNOWLEDGES THAT SUCH INSTRUCTIONS AND WARNINGS CONTAIN INFORMATION NECESSARY FOR THE SAFE AND PROPER OPERATION OF THE EQUIPMENT AND TO PREVENT BODILY INJURY AND PROPERTY DAMAGE.

3.4 Disclaimer LCT MAKES NO EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS TO BUYER WITH RESPECT TO THE EQUIPMENT, THE DOCUMENTATION THEREOF, OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, ANY IMPLIED WARRANTY OF NONINFRINGEMENT, AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, BUYER ACKNOWLEDGES THAT LCT DOES NOT WARRANT THE QUALITY OR ACCURACY OF THE SERVICE OR OUTPUTS OF THE EQUIPMENT IN ANY MANNER WHATSOEVER.

4 **LIMITATION OF LIABILITY AND RIGHTS.**

4.1 Limitation of Liability Neither LCT nor its officers, employees, directors, shareholders, or representatives shall have any liability to buyer, whether in contract, tort, negligence or otherwise, for any (a) lost profits, systems interruption or damage, or business interruption, (b) indirect, special, incidental, exemplary, punitive or consequential damages, or (c) damages from loss of use, data, profits, or business opportunities, or failure to achieve cost savings, of any kind or nature whatsoever arising out of or in connection with this agreement, even if LCT has been advised in advance of the possibility of such loss, cost or damages.

4.2 Further limitation of liability Without limiting the foregoing, buyer agrees that neither LCT nor any of its officers, directors, agents, or employees shall have any liability for any claim, loss, damage or expense based upon buyer's use or inability to use the equipment or that otherwise may arise in relation to this agreement. In addition, LCT shall have no liability whatsoever for any damages resulting from buyer's breach of its own warranties or representations, or any other causes beyond LCT's control.

4.3 Limitation of damages The maximum amount of money damages for which LCT may be liable under, relating to or in connection with this agreement, resulting from any cause whatsoever, including LCT's indemnification obligations, shall be limited to the amount actually received by LCT from buyer under this agreement. The parties acknowledge and agree that the liability limitations under this agreement are an essential term of this agreement, and that LCT would not have entered into this agreement in their absence. This limitation shall be enforced to the fullest extent possible under applicable law.

4.4 Risk of Loss The risk of loss for the Equipment passes to Buyer upon receipt by buyer or its agents or contractors to a third-party carrier for shipment to Buyer.

5 **TRADE SECRETS AND CONFIDENTIAL INFORMATION.**

5.1 Acknowledgements; Definitions Buyer acknowledges that the Hardware and Software and all documentation thereof are commercially valuable, proprietary products, the design and development of which reflect the effort of skilled development experts and the investment of considerable time and money. The Hardware and Software also contain Trade Secrets and Confidential Information. For purposes of this Agreement, "Trade Secrets" means information, regardless of form, which: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. "Confidential Information" means information, other than Trade Secrets, that is of value to its owner and is treated as confidential. "Proprietary Information" means Trade Secrets and Confidential Information.

5.2 Duties Buyer agrees to hold the Proprietary Information in confidence and not to, directly or indirectly, copy, reproduce, distribute, transmit, duplicate, reveal, report, publish, disclose, cause to be disclosed, or otherwise transfer the Proprietary Information to any third party, or utilize the Proprietary Information for any purpose whatsoever other than as expressly contemplated by this Agreement. Only Buyer is authorized to access and use the Equipment. With regard to the Trade Secrets, this obligation shall continue for so long as such information constitutes a trade secret under applicable law. With regard to the Confidential Information, this obligation shall continue for a period of three (3) years after the date of the expiration or termination of this Agreement. Upon the termination of this Agreement, Buyer shall cease all use of the Proprietary Information, and shall return or delete, as applicable and as requested by LCT, all materials comprising or containing Proprietary Information, retaining no copies thereof.

6 **TERM AND TERMINATION.**

6.1 This Agreement shall continue in effect until terminated in accordance with this Section 6.1. LCT may terminate this Agreement immediately upon a material breach of Buyer's obligations, representations or warranties, or upon thirty (30) days' written notice for convenience. Buyer may terminate this Agreement upon sixty (60) days' written notice. In addition to any other remedies available under this Agreement and/or by law, upon the termination of this Agreement, all rights and licenses granted hereunder shall terminate.

7 **GENERAL.**

7.1 Entire Agreement This Agreement represents the entire understanding of the parties concerning the subject matter hereof and supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating

to the subject matter of this Agreement, which are merged into this Agreement. Buyer is not relying on any warranties or representations by LCT other than those expressly set forth in this Agreement.

7.2 Waiver. No waiver of any breach or failure or delay in exercising any right, power or remedy of any provision of this Agreement shall constitute a waiver of the same or any other provision hereof with respect to prior, concurrent or subsequent occurrences, and no waiver shall be effective unless made in writing and signed by an authorized representative of the party against whom enforcement of such waiver is sought.

7.3 Severability. The provisions of this Agreement are severable, and the unenforceability of any provision of this Agreement shall not affect the enforceability of this Agreement or any other provision hereof. In addition, in the event that any provision of this Agreement (or portion thereof) is determined by a court of competent jurisdiction to be unenforceable as drafted, the parties acknowledge that it is their intention that such provision (or portion thereof) shall be construed in a manner designed to effectuate the purpose of such provision to the maximum extent enforceable under applicable law.

7.4 Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been given and sufficient in all respects when delivered personally, by overnight courier (against receipt), or by certified or registered mail, return receipt requested, postage prepaid, to the parties at the addresses first listed above.

7.5 Binding Nature and Assignment. This Agreement will inure to the benefit of and be binding on the parties, and their successors, permitted assigns and legal representatives. Neither party may assign its rights or obligations under this Agreement (in whole or in part), except that LCT may assign its rights or obligations to a corporation or other entity that acquires (i) all, or substantially all, of the assets or business of LCT, or (ii) a majority of the shares of stock of LCT, without the express written consent of Buyer. Any assignment in violation of the provisions of this paragraph shall be void.

7.6 Remedies Cumulative. Subject to the express limitations set forth elsewhere in this Agreement, all remedies in this Agreement are cumulative and in addition to and not in lieu of any other remedies available to a party at law or in equity.

7.7 Survival. The provisions of sections 1.2, 1.3, 2.2, 2.3, 3.3, 3.4, 4, 5, 6 and 7 of this Agreement shall survive any termination and/or expiration of this Agreement.

7.8 Force Majeure. LCT will not be responsible for delays or failures in performance resulting from acts beyond its reasonable control and without its fault or negligence. If there is any such delay, then the periods for the completion of LCT's obligations hereunder will be automatically extended by the period of such delay.

7.9 Use of Buyer's Name. Buyer grants LCT permission to use Buyer's name and logo in LCT's client lists, website, press releases, and marketing materials.

7.10 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

7.11 Headings; No Construction Against the Drafter. The headings appearing in this Agreement are inserted only as a matter of convenience, and in no way define, limit, construe or describe the scope or extent of the provisions of this Agreement or in any way affect such provisions. This Agreement memorializes an arm's-length commercial transaction such that there shall be no inference or construction against either party as the drafter.

7.12 Injunctive Relief. Buyer agrees that any violation or threat of violation of this Agreement will result in irreparable harm to LCT, for which damages would be an inadequate remedy. In addition to any rights and remedies otherwise available at law, LCT shall be entitled to request equitable relief to prevent any unauthorized use or disclosure, and to such other and further equitable relief as may be deemed proper under the circumstances.

7.13 Governing Law, Jurisdiction and Venue. This Agreement shall be governed by, and construed and interpreted in accordance with, the substantive laws of the State of Florida, without regard to the conflicts of law rules thereof. Exclusive jurisdiction and venue for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement or any breach thereof shall be in a state court of competent jurisdiction located in the 12th Judicial Circuit Court in Sarasota County, Florida. The parties hereby irrevocably consent to the jurisdiction and venue of such courts and waive any defenses relating thereto.

Logical Choice Technologies, Inc.

Sarasota County Schools

Print Name

Date

Print Name

Date

Cynthia Bertucci Kaye
CEO & President
Logical Choice Technologies, Inc.

Sarasota Representative

**EXHIBIT A
LCT PRODUCTS AND PRICING**

Sarasota Pricing

Logical Choice Technologies is pleased to offer Sarasota County Schools the following products to complete the Activboard+2 Adjustable Classroom System.

Item	Description	Sarasota Price
Activboard+2 Adjustable Classroom	78" Activboard, adjustable mount & Sanyo XE40 projector	\$4,000
Sound System	180 Watt, 2.1 Sound System – 2 speakers/subwoofer	Included
Installation	Project Coordination	Included
	"No worries" Installation Labor	Included
	"No worries" AB+2 Installation Kit	Included
Shipping	FOB Sarasota warehouse	No Cost

Professional Development

1000 Teachers – 2x1/2 day Class size 7 – 8	Our plan is to incorporate 2 half day sessions at intervals of 2 weeks apart per teacher, not to exceed 1000 teachers starting January 2007 and ends June 2007. Our instructors are all former teachers themselves who are highly proficient with the Activclassroom.	\$125,000
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Sound System Options

Classroom Price

Audio Gear 2.0 sound system. (Cost in base classroom price) Audio Gear Amplifier specifications: 30 watt stereo amplifier, upgradeable to full voice enhancement. 2 wall mount speakers, power supply & speaker cable. Included

Upgrade Option

AudioGear full voice enhancement receiver and teacher transmitter system and installation \$795

- Dual channel, infrared voice enhancement receiver
- Teacher microphone transmitter with selectable frequencies – 2.06 or 2.56 MHz – to allow up to two users
- Teacher Microphone has small charging base allowing the batteries to be charged in a secured location
- Wall or ceiling mounted 180° infrared sensor

\$100

An upgrade is available to add second pair of speakers in classroom to complement the two wall mounted speakers (option of wall or ceiling mount). Installation is included

Additional Options

Option Slates Slates – See attached specification sheet \$399

Option Votes Votes – See attached specification sheet \$1495

EXHIBIT B LCT STATEMENT OF WORK

Sarasota County School District District-Wide Activclassroom Project

Statement of Work

Logical Choice Technologies (LCT) is a certified Promethean installer. We have experienced personnel who provide a high-quality, complete installation, which will enable you to engage your students in a 21st Century learning environment

Scope of Work

Activboard+2 Adjustable Classroom System

The following are the activities that will be performed by Logical Choice Technologies during the installation of the Activboard +2 all-in-one classroom system. Any services requested beyond this scope of work will require a change order, signed by the customer and may result in a delay to the schedule

Upon receipt of purchase order from customer, Logical Choice requires a minimum 30 days to ensure adequate planning, adequate staffing, and timely delivery of all products.

1. Un-box all components purchased through Logical Choice Technologies
2. Install Activboard projector and sound system.
3. Activboard will be hung on wall designated by customer
4. Provide capability for teacher's workstation to be within 10 feet left or right of the center of the Activboard
5. Provide all cables necessary to connect Activboard, projector TV/VCR to teacher's workstation
6. Cables will exit surface mount raceway at or near the teacher's workstation in a bundle of approximately 8-feet of cable to connect to the workstation and peripheral equipment.
7. Connect all appropriate cables from Activboard to teacher workstation.
8. Connect projector to teacher workstation
9. Align and calibrate projector, verify functionality is in good working order
10. Load Activstudio in all classrooms and load Activprimary in all elementary classrooms
11. Configure the Activboard with teachers workstation
12. Install basic sound system, including 2 wall mounted speakers
13. Deliver all product from central location to each school
14. LCT will remove trash by truck and dispose of it at the county disposal/recycling facility.

Does not include:

1. Patching or repair of walls after removal of existing whiteboards or bulletin boards
2. Installation of a power outlet in wall to power the system
3. Installation of a Termination Box at customer's PC location unless purchased separately
4. Enhanced Sound System and its installation is covered separately

Customer Responsibilities

The following is a summary of the customer's installation related responsibilities:

1. Provide and designate a solid, flat wall surface. This surface must be at least 7 ft. wide by 8 ft high – Concrete block or drywall construction, free from obstructions (e.g. whiteboards, chalkboards, bulleting boards, shelves, light switches, vents, molding, conduit, and outlets). When due to asbestos concerns or other unusual circumstances, it is impractical to remove an existing whiteboard or chalkboard, the customer may, upon approval of Logical Choice Technologies modify the existing items in such as way as to allow the installation of the Activboard +2 all-in-one classroom system over that existing structure.
2. Provide 110-volt electrical power available on the wall, near the location of the Activboard.
3. Placement of the teacher computer needs to be within 10 feet of the Activboard if no termination box is installed or within 15 feet of the Activboard if a termination box is installed. (If the distance to the teacher workstation exceeds specified parameters, extension cables will be provided for an additional charge)
4. The teacher computer system must be available at the time of Activboard installation so the software can be loaded.
5. At the time of installation, the most comprehensive administrative passwords must be made available or school personnel with full administrative access must be available to facilitate software installation.
6. Installation is to be after school hours and team must have access to the building for at least 8 hours a day, Monday through Friday in order to guarantee job completion on time. We also are available to work Saturdays, depending on school operations and custodial staff availability
7. Customer representative must be available at the start of installation and at the completion to verify functionality and customer satisfaction and sign-off.
8. Customer is responsible to identify any buildings that may have asbestos issues and show that an Asbestos abatement team has remedied the situation.
9. Customer is responsible for receiving and verifying all products and provides a safe and secure storage and staging area for all products in each school.

EXHIBIT C
Sarasota Software Addendum

October 15, 2006

Sarasota County Schools
ActivStudio and ActivPrimary
Software Licensing Addendum

As part of Promethean's partnership with Sarasota County Schools, Promethean grants permission for the school system to license ActivStudio 2.5 and ActivPrimary in each of the ActivClassrooms installed in elementary schools as designated by the District. All non-elementary classrooms will have a license for ActivStudio 2.5.

One master set of ActivStudio media and serial number will be provided to each school upon installation plus ten additional district sets at no additional cost to the district. Each elementary school will also receive a master set of media for ActivPrimary. Additional media sets may be ordered at a cost of \$25 per set.

This license shall include periodic version upgrades for the standard three year warranty period on the ActivBoard plus an additional two years if the ActivBoard is installed by a Promethean Certified Installer.

These upgrades will be available on the Promethean software support website for downloading. Media sets of new versions may be ordered at a cost of \$25 per set.

Beyond this warranty period, any future upgrades will be available for purchase according to Promethean's software application pricing. This may be subject to volume discounts where applicable.

In order to better support the teachers of Sarasota County, it is essential we know the number and locations of each software version in use. Thus we request the district to provide Promethean with an annual list of schools and the total number of each software package installed in each school by September 1.

The ActivStudio and ActivPrimary Software Licenses are attached.

ACTIVprimary License Agreement

This is an agreement between Promethean Technologies Group Ltd ('Promethean') and your organization. Installation of this application on any hardware will be deemed to be acceptance of the terms of this agreement.

This agreement permits you to install and use one copy of this application on a single computer that acts as host to a Promethean ACTIVboard or ACTIVpanel. Presentation of this application on a projector only, or usage with any other manufacturer's tablet or interactive board is a breach of license.

Additionally, this license permits installation for use in preparatory work on the license holder's hardware or on the user's personal hardware on or off site. This license for preparation is restricted to five (5) users per ACTIVboard or ACTIVpanel. Please note only one CD-ROM will be shipped with each Interactive device.

One (1) additional software installation license is granted with each Promethean PRESENTA Pad (or PrepPad) owned by the establishment or end user.

Whilst this application is being used in preparation mode (i.e. not connected to a Promethean Interactive device), the user will be reminded of the license details, but normal running of the software will not be affected except for handwriting recognition which will be disabled. When this application is being run whilst connected to recognized Promethean hardware (ACTIVboard, ACTIVhub, ACTIVpanel, ACTIVtablet or PrepPad) the reminder screen(s) will not be displayed and handwriting recognition will run normally.

Further installations than those defined above may become chargeable. Please contact Promethean if you require additional licensed copies of this application for more extensive use across your establishment.

Copyright resources are provided on a separate CD and may be used free of charge but only on a properly licensed copy of this Promethean application (see above).

RESTRICTIONS You may not:

- a) copy the software except for backup purposes
- b) install the Single user version of this software on a network server
- c) make the software or associated documentation available to any third party by way of loan, rental, transfer, sub-license or lease
- d) incorporate any part of the software into other software developed by you
- e) decompile, alter, disassemble or reverse engineer (except as permitted by applicable law) or make any attempt to discover the source code of the software, documentation or packaging
- f) remove any proprietary labels, notices or marks on the software, documentation or packaging

You may:

- a) copy the supplied documentation for training purposes solely for use within your establishment

Limited Warranty

Promethean Technologies Group Ltd specifically disclaims any implied warranty of merchantability or fitness for a particular purpose.

Any implied warranty or merchantability is limited to the CD and physical documentation, not the software.

Use of the software is at your sole risk. Some countries do not allow the exclusion of incidental or consequential damages, so some of the above may not apply to you.

Limitation of Liability

The entire and exclusive liability and remedy of the limited warranty shall be limited to the replacement of defective CDs or documentation and shall not extend to any claim or right to recover any other damages. In no event will Promethean's liability for any damages to you or any other person exceed the purchase price of the software, regardless of the form of the claim.

General Law and Governing Provisions

This Agreement shall be governed by, and construed and interpreted in accordance with, the substantive laws of the State of Florida, without regard to the conflicts of law rules thereof. Exclusive jurisdiction and venue for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement or any breach thereof shall be in a state court of competent jurisdiction located in the 12th Judicial Circuit Court in Sarasota County, Florida. The parties hereby irrevocably consent to the jurisdiction and venue of such courts and waive any defenses relating thereto.

Additional software shipped with this application is subject to that vendor's licensing agreement

ParaGraph End-User Software License

This Agreement governs your use of the ParaGraph (a business unit of Vadem) software provided to you with this product, including ParaGraph's manuals and other documentation

If you do not agree to the provisions of this license agreement, please immediately return the unopened software to the entity which sold it to you and your purchase price will be refunded

1. **Grant of Rights.** This license agreement permits you to use one copy of the ParaGraph software, solely when provided by CD-ROM of your Windows hardware device to perform certain handwriting recognition functions.
2. **Restrictions on Use.** The software is owned by ParaGraph and is protected by all applicable copyright treaties, laws and regulations. ParaGraph reserves all rights to the software not expressly granted. You must treat the software like any other copyrighted material, and may not make any copies or distribute the software to anyone else without ParaGraph's permission. You may, however, make one backup copy solely for archival purposes. You may not sell or lease the software to anyone else, but may transfer the software and related documentation to someone else provided you keep no copies (on your hand held device or otherwise), and ensure that the person to whom you give the software and related documentation understands and agrees to be bound by this license agreement. You may not reverse engineer, decompile or disassemble the software or create derivative works of the software unless that is expressly permitted by law.
3. **Limited Warranty.** For 90 days from the date you have purchased this software, ParaGraph warrants that the software complies with the specifications set forth in the software documentation. ParaGraph does not warrant the media that the software is on, nor does ParaGraph warrant that the software will meet your particular needs or that it will operate without interruption or be error free. If your software does not work within the 90 days after you got it, return it promptly to the entity you bought it from. If ParaGraph is responsible for the problem, you will either receive new software or will get a full refund. **THIS IS THE ONLY WARRANTY PARAGRAPH GIVES WITH RESPECT TO THE SOFTWARE, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED.**
4. **Limitation on Liability.** ParaGraph will not be responsible to you for any special, incidental or consequential damages you may incur arising out of or related to your use of the Software even if you have informed ParaGraph of the possibility you might incur such damages. In no event will ParaGraph's liability to you exceed the price you paid for the software. Because some states do not allow the exclusion of these types of special damages, the above limitation may not apply to you.
5. **Government Restrictions.** The software may be subject to government regulations concerning its export outside of the United States. You are solely responsible for determining your obligations under U.S. export control law prior to any shipment of the software outside of the United States. ParaGraph is located at 1960 Zanker Rd., San Jose, CA 94043.

ACKNOWLEDGEMENTS

Promethean acknowledge and thank the following organizations for the right to use material within the ACTIVprimary resource Library:

AngelSoft Primary Clipart (www.angelsoft.co.uk)

COSMI Inc. NASA

Portions of this application:

- © Apple Computer Inc,
- © Bennet-Tec Information Systems Inc,
- © Desaware Inc
- © Info-ZIP,
- © Inner Media Inc,
- © Online Media Technologies Ltd
- © Ted Gruber Software
- © TechSmith Corp
- © Trolltech Inc,
- © Vadem Ltd,
- © VideoSoft,
- © WPCubed GmbH
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ACTIVstudio Professional Edition Licence Agreement

This is an agreement between Promethean Technologies Group Ltd ('Promethean') and your organization.

This agreement permits you to install and use one copy of this application on a single computer that acts as host to a Promethean ACTIVboard or ACTIVpanel. Presentation of this application on a projector only, or usage with any other manufacturer's tablet or interactive board is a breach of licence.

Additionally, this licence permits installation for use in preparatory work on the licence holder's hardware or on the user's personal hardware on or off site. This licence for preparation is restricted to five (5) users per ACTIVboard or ACTIVpanel. Please note only one CD-ROM will be shipped with each Interactive device.

One (1) additional software installation licence is granted with each Promethean PRESENTA Pad (or PrepPad) owned by the establishment or end user.

Whilst this application is being used in preparation mode (i.e. not connected to a Promethean Interactive device), the user will be reminded of the licence details, but normal running of the software will not be affected except for handwriting recognition which will be disabled. When this application is being run whilst connected to recognized Promethean hardware (ACTIVboard, ACTIVslate, ACTIVpanel, PRESENTA Pad or PrepPad), the reminder screen(s) will not be displayed and handwriting recognition will run normally.

Further installations than those defined above may become chargeable. Please contact Promethean if you require additional licenced copies of this application for more extensive use across your establishment.

Copyright resources are provided on a separate CD and may be used free of charge but only on a properly licenced copy of this Promethean application (see above).

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- b) install the Single user version of this software on a network server
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- d) incorporate any part of the software into other software developed by you
- e) decompile or make any attempt to discover the source code of the software, documentation or packaging
- f) remove any proprietary labels, notices or marks on the software, documentation or packaging

You may:

- a) copy the supplied documentation for training purposes solely for use within your establishment

Limited Warranty

Promethean Technologies Group Ltd specifically disclaims any implied warranty of merchantability or fitness for a particular purpose.

Any implied warranty or merchantability is limited to the CD and physical documentation, not the software.

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This Agreement governs your use of the ParaGraph (a business unit of Vadem) software provided to you with this product including ParaGraph's manuals and other documentation.

If you do not agree to the provisions of this licence agreement please immediately return the unopened software to the entity which sold it to you and your purchase price will be refunded

1. Grant of Rights This licence agreement permits you to use one copy of the ParaGraph software, solely when provided by CD-ROM of your Windows hardware device to perform certain handwriting recognition functions.

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EXHIBIT D Warranty

LIMITED WARRANTY

As further set forth below, Promethean, Inc, 8601 Dunwoody Place, Suite 108, Atlanta, GA 30350, USA ("Promethean") warrants to the end-user purchaser (the "Customer") of this product that it will be free from defect in material and workmanship under normal operating conditions. This limited warranty is for the original end-user purchaser only and cannot be transferred or assigned to another company or individual.

LIMITED WARRANTY PERIOD AND SCOPE OF COVERAGE

The Promethean ACTIVboard is covered by a limited Return-to-Base warranty for a period of three (3) years. Pens included with the ACTIVboard are covered by a one (1) year Return-to-Base warranty. All warranty periods commence on the date of shipping the product in question from Promethean's US warehouse.

Note: Installation of Promethean ACTIVboards (wall-mounted) by a Certified Promethean Installer entitles the customer to an additional 2 years of warranty. Contact your Certified Promethean Installer for details

During the Limited Warranty period, Promethean will repair, or at its discretion replace, the faulty item with new or refurbished parts.

This Limited Warranty is applicable to US mainland purchased only. For products purchased outside of the area specified herein please contact your distributor or local Promethean authorized reseller for assistance and information specific to such purchases.

LIMITED WARRANTY SERVICES

In the unlikely event that a Product should become defective during the Limited Warranty period, the Customer should contact their distributor where applicable or Promethean Customer Support.

Promethean Customer Support service is available from 8:00 AM to 6:00 PM EST, Monday through Friday, excluding *holidays*.

Promethean Customer Support may be contacted via:

TELEPHONE: (678) 762-1500 or 1 888 652-2848

EMAIL: support@us.prometheanworld.com

WEB: www.prometheanworld.com

Before you make a call

Understand the terms and conditions of this Limited Warranty.

In order to help us process your call or email more efficiently, please have the following information available when contacting us:

The serial number of the Promethean ACTIVboard. This can be found on the electronics board on the back of the ACTIVboard visible from the left side of the ACTIVboard. The model / size of the Promethean ACTIVboard if known. A description of the problem. You may also be asked to check version number of drivers, firmware and other software.

Customer Support will follow an appropriate diagnosis and problem-solving process and aim to achieve in-call first time fix. A unique call ID reference will be issued for every call.

Please note that on occasion, the Customer may be requested to obtain further information or to try the advice given and call back as required.

For all warranties requiring a product return, a Return Material Authorization number (RMA#) must be obtained **BEFORE** sending goods back to Promethean. This RMA # must be clearly marked on the shipping container. Promethean reserves the right to refuse the shipment if not properly marked. Unless otherwise agreed all return shipments will be at the expense of the Customer.

LIMITED WARRANTY EXCLUSIONS

Promethean will not be liable for and the Limited Warranty will not apply to:

Products that have been modified or repaired (including any attempt to do so) by anyone other than Promethean authorized personnel.

Use of the Product other than according to the manufacturer's instructions included with the Product.

Deliberate or accidental damage to the Product, howsoever caused, including, without limitation: shipping, installation (other than through a Certified Promethean Installer), misuse, abuse, movement of equipment, power failures or fluctuations, relocation of equipment, fire, flood, war, act of violence. Services such as reinstallation or relocation of hardware, for which there may be additional charges.

Other items included within the package, such as cables, brackets, and fittings. These items are provided "AS IS." Damage to the surface of your ACTIVboard caused (1) through a cleaning regime not in accordance with the 'Cleaning & Maintenance' section of the ACTIVboard's user guide, or (2) by the application of inappropriate cleaning materials, solvents, or abrasives.

STATUTORY RIGHTS AND DISCLAIMER OF UNSTATED WARRANTIES

The limited warranty printed in this document is the only warranty applicable to this purchase.

ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

LIMITATION OF LIABILITY / DAMAGES

Assuming the warranty above stated is otherwise applicable, it is expressly understood and agreed that Promethean's sole liability, whether in contract, tort, under any warranty, in negligence, or otherwise, shall be for the repair or replacement of the defective parts, and under no circumstances shall Promethean be liable for special, indirect, or consequential damages. The price stated and paid for the equipment is a consideration in limiting Promethean's liability.

Notice: Some states and provinces do not allow the exclusion or limitation of incidental or consequential damages, so the above exclusion may not apply to you. This warranty gives you specific legal rights, and you may have other rights, which vary from state to state.

ON-LINE REGISTRATION

We recommend that you use our on-line registration system to register your ACTIVboard. Registered users will automatically receive e-mail notifications of free updates and offerings.

Please register your ACTIVboard at:

http://www.prometheanworld.com/n-america/en/html/customer_care/index.shtml

PROMETHEAN SOFTWARE AND UPGRADE POLICY

ACTIVstudio and ACTIVboard drivers

It is Promethean's policy to provide to registered customers updates during the warranty period of the ACTIVboard free of charge. Software updates may be acquired as a download either via the website at:

http://www.prometheanworld.com/n-america/en/html/customer_care/contact.shtml

or via a new CD(s). Promethean reserves the right to choose which delivery vehicle is most appropriate. Shipping and handling charges for updates via CD may apply.

New applications and major updates

Promethean reserves the right to charge for new applications (such as ACTIVprimary) or major updates (such as moving from version 1.x to 2.x).

ACTIVBOARD+2 ADJUSTABLE

PRODUCT SPECIFICATIONS – ACTIVBOARD+2 ADJUSTABLE

Activboard 78"

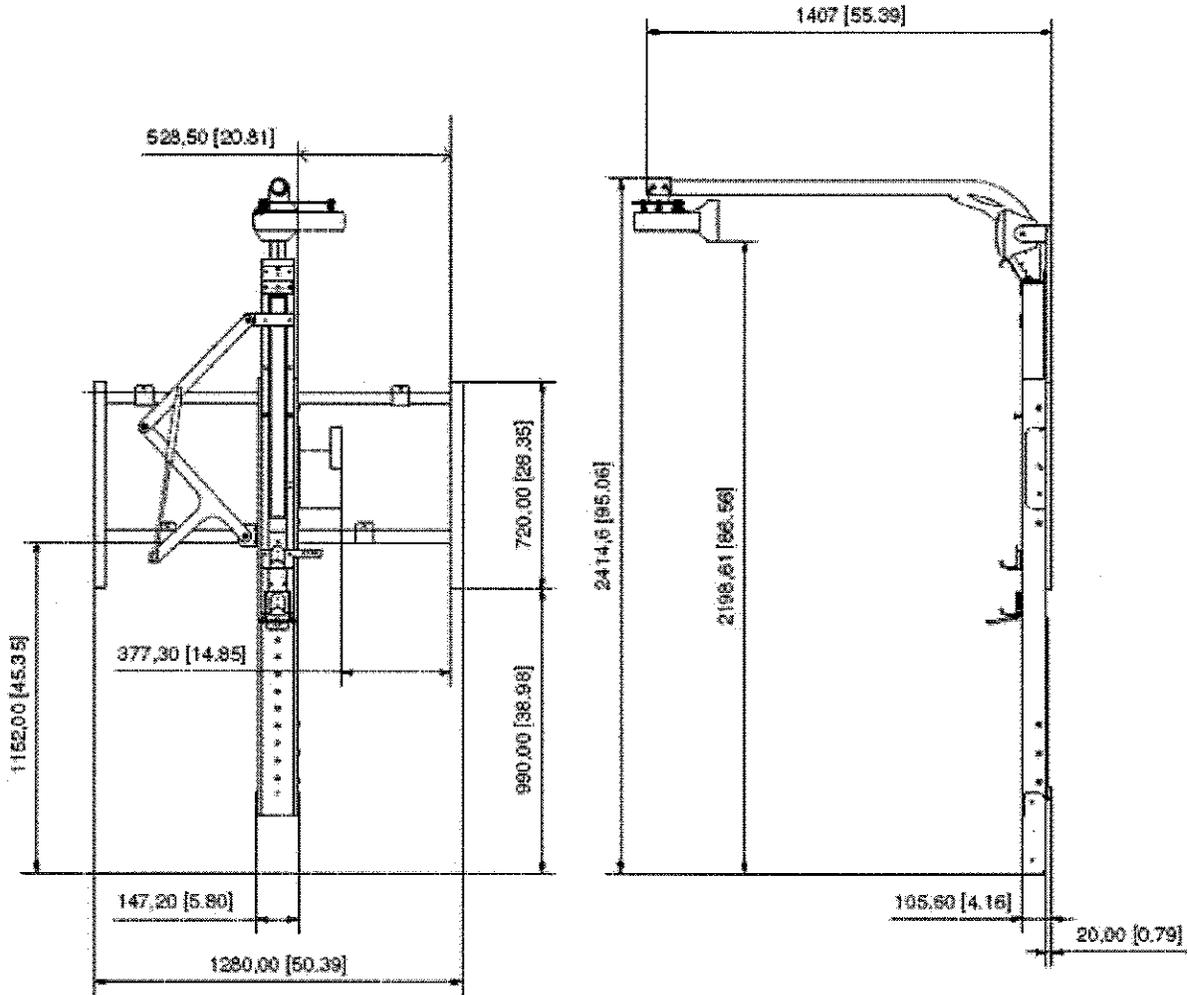
Resolution internal	2730 points (lines) per inch, output to 200 for precise operation
Tracking rate	200 inches per second providing a fast response to your pen commands
Output rate	120 coordinate pairs per second for accuracy when writing and drawing on the board
Pointing device	Cordless battery-free pen (Activpen)
Digitizing technology	Passive electromagnetic interface encased behind robust melamine for technical reliability and durability
Connection to computer	Serial RS232 to host at up to 38 4kbs, USB 1 1/2, or Bluetooth wireless
Connection to peripherals	Built-in RF connectivity (/915 MHz) to Activotes (student response devices) and Activslates (wireless remote devices) Maximum: 64 of each device per board. Range is up to 50ft (15m).
Screen surface	Low glare melamine providing an efficient projection surface
Certification	CE, FCC, UL listed
Operating temperatures	Operating Range: 14 F (-10 C) to 122 F (50 C); Storage Range: -13 F (-10.5 C) to 158 F (70 C)
Power requirements	6 Volt 0.5 Amp
Board size	78" diagonal
Overall dimensions	67" x 49" (1700 x 1240mm)
Active area dimensions	64" x 46" (1624 x 1160mm)
Active area diagonal	78" (1995mm)
Packed weight	57lbs (26kg) (Board weight is 42 lbs (19kg))
Warranty	3 years; 5 years if installed by an authorized installer

Height Adjustable Wall Mount Frame

Board Size	Accommodates 78" Activboard
Height settings	Height-adjustable mount, with 24" (600mm) of adjustment from 36" (900mm) to 12" (300mm). Mechanically operated with handle at base of board, requiring approx. 22 lbs (10kg) of force to move. Adjustable limit stops are fitted if the full range of movement is not required or appropriate.
Projector mount	Steel arm, extends 39" (1m) from the board, adjusts with the height of the Activboard reducing the need for specific re-calibration following height adjustment
Room height requirements	Min. 8 2 ft (2.5m) for full range operation
Power	Integrated 'power management' system for Activboard and Projector, four outlets built into the frame system, only one outlet near system required Cabling for connection to computer is not included Frame only: 93 lbs (42kg) excluding board and projector. Complete system: 163 lbs (74kg)
Weight (approx.):	
Packed Weight	Comes in two boxes; one weighs 49lbs and one weighs 51lbs
Warranty	1 year return to factory on metal works; Malice (e.g., hanging on boom) or adding additional items to the mount will invalidate the warranty.
Installation Requirements	Requires installation by authorized installer or release of liability

Projector Specifications

Brand/model	Sanyo XE40
Throw	39" (1m) via fixed super short focus lens
Display type	True XGA (1024 * 768)
Display technology	LCD, 0.6" TFT p-Si x 3 with Micro Lens
Brightness	1500 ANSI Lumens with Economy mode
Lamp life expectation	3000hrs (Eco mode), 2000 hrs (standard)
Aspect ratio	4:3 native (with support for 16:9)
Contrast ratio	400:1
Color systems	NTSC / NTSC4 43 / PAL / SECAM / PAL-M/N
HDTV compatibility	480i, 480p, 575i, 575p, 720p, 1035i and 1080i
Computer compatibility	UXGA / WXGA / SXGA / XGA / SVGA / VGA and MAC
Scanning rate	H/V sync approx 100kHz, 100Hz
Color	16.7 million true colors
Input/output connectors	2 x Composite D-SUB15, first for PC input, 2 nd for PC input or monitor output (switchable) RCA for Composite video input Mini-DIN 4-pin for S-video input RCA audio input pair Mini-jack (stereo) for PC input Mini-jack (stereo) for audio output (variable) RS232C & USB type B service/upgrade ports AC power inlet
Projector noise	31dBA (Eco mode), 35dBA (Standard)
Power consumption	245W normal, 200W eco, 9W standby
Heat output	836 BTU/hr (Normal), 682.6 BTU/hr (Eco), 30.7 BTU/hr (standby)
Security Features	Remote-only operation, pin-code lock, sonic alarm (100dB), User logo feature (with lock)
Dimensions (W x H x D)	320 x 148 x 292mm (12.6" x 5.8" x 11.5")
Weight	3.3kg (7.3lbs)
Input Voltage	100V – 240V AC (auto voltage)
Lamp management	'Lamp save' feature to reduce risk of lamp failing in the event of interrupted power supply
Warranty	3 year return to factory on projector; contact authorized reseller for assistance



Promethean Part Numbers

AB2-PFS-USB2 (includes Activboard 78 Adjustable Wall Mount and Sanyo Super Throw projector)

PAS-USB4 (includes Adjustable Wall Mount and Sanyo Super Throw projector; Activboard serial number(s) must be provided with order)

The adjustable wall mount will not support the Activboard 75.

Speakers are not included.

Cabling for connection to computer is not included

Adjustable mount requires installation by authorized installer or release of liability must be provided with order.

Specifications are subject to change

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