

2004-2005 Cisco Networking Academy Agreement

**The University of Akron (UA)
Community and Technical College
Business Technology Department
Computer Information Systems**

Cisco Networking Academy

**2004-2005 Local Agreement
Wireless & Security**

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Cisco Networking Academy

2004-2005 Local Agreement

This Cisco Academy of UA ("Agreement") is made on _____, between The University of Akron (UA) and _____ ("Customer" and/or "Local Academy"), the entity identified on the signature page of this Agreement. WHEREAS, UA, desires to provide to Customer and Customer desires to secure from UA the services ("Services") set forth on Exhibit A attached to this Agreement and incorporated herein by reference now. THEREFORE, in consideration of the mutual agreements hereinafter set forth and for other good and valuable consideration, the parties hereto, intending to be legally bound, agrees as follows:

I. TERM AND RENEWAL

A. This agreement shall be for the period beginning _____ and ending _____ subject to any specific periods described in Exhibit A B, and C attached hereto and incorporated herein by reference.

B. After the initial term, this Agreement may be renewed upon the mutual written consent of the parties. Notwithstanding the foregoing, this Agreement shall not be renewed if Customer is delinquent in payments to UA at the time of the contract renewal.

II. PERFORMANCE

A. UA shall furnish Customer such Services as are described in attached Exhibit A.

B. Customer shall undertake its obligations set forth in attached Exhibits B and C.

III. CHARGES AND PAYMENT

A. Customer agrees to be solely responsible to UA for all charges billed by UA for services provided to customer under this Agreement. Charges for the Services provided under this Agreement will be billed to Customer as follows:

- Support will be billed annually
- Training and optional services will be billed on an as-used basis.

B. Payment of charges billed is due within thirty (30) days of Customer's receipt of the invoice. Late payments will be subject to a service charge of up to 1% of unpaid fees per month. UA may at its sole discretion terminate or suspend the Services to any Customer whose payments are in arrears more than sixty (60) days.

C. Charges are subject to change. Regional Academy agrees that it will limit any service fee changes to an amount sufficient to recover only those costs incurred by the Regional Academy that are directly associated with the operation of the Program.

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D. Where applicable, Customer agrees to pay UA for any additional costs as set forth in Exhibit A and/or stated or implied in this packet of information "UA Regional/Local Cisco Academy." Customer also agrees to pay Cisco directly for equipment and equipment maintenance.

IV. WARRANTIES AND LIMITATIONS ON LIABILITY AND INDEMNIFICATION

A. UA shall be liable to Customer for failure to provide any services only if such failure to provide any services is due to the negligence of UA. IN NO EVENT SHALL UA BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES. UA's liability shall be limited to the cost of the services.

B. It is agreed that UA shall not be liable for any damages incurred as a result of the errors or omissions of Customer, its personnel, employees, agents or users.

C. UA shall not be liable for failure to perform if such failure is due to causes or conditions beyond its control.

D. Customer may utilize the Services provided for educational and educational administrative related activities only. Where the Services provided include access to computer networks or public networks, UA does not warrant the functions of the network will meet any specific Customer or user requirements, or that Services provided will be error free or uninterrupted; nor shall UA be liable for any actual damages or any indirect, incidental, special or consequential damages (including as a result of loss of data or misinformation) sustained in connection with the use, operation, or inability to use the UA network by Customer or its users.

E. Further, Customer understands and agrees that UA will exercise no control over the information that Customer and users may transmit and access as a result of the provision of Services by UA and that, therefore, Customer will make no claim against UA for the network uses, including transmission, downloading or uploading of information that is offensive, a violation of law, or the actionable violation of others' rights. UA does not routinely monitor Customer's activities or pupil access to any of the interconnected systems and does not warrant the accuracy or appropriateness of any information contained in the interconnected systems. Some material contained in the interconnected systems may be inappropriate for school age pupils.

F. Customer understands and agrees that UA shall have no responsibility for Customer's or its users' accessing or transmitting offensive or unlawful information, interference or unlawful access to others' information or networks, or other offensive or unlawful activity in which UA's network is used. UA does reserve the right to monitor such transmissions if it determines, in its sole discretion, that such monitoring is necessary.

V. PROPERTY

A. All equipment that is provided by UA shall remain the property of UA. In the event this Agreement is terminated, the Customer agrees to return all equipment to UA as soon as may be reasonably practicable after the date of termination.

VI. CONFIDENTIALLY OF INFORMATION

A. UA shall exercise ordinary care in preserving and protecting the confidentiality of information and materials furnished by Customer.

B. Except as required by law or the Cisco Quality Assurance Plan (QAP), UA agrees not to disclose any materials, information, or other data relating to Customer's operations, to other individuals, districts, or governmental agencies, without prior written consent from Customer.

C. Except as required by law, Customer agrees not to disclose any information or documentation obtained from UA.

VII. NOTICES

A. All notices permitted or required to be given to either of the parties to this Agreement shall be in writing and shall be deemed given or delivered when: (a) delivered by hand or (b) mailed, if sent by regular mail or other express delivery service (receipt requested), in each case to the appropriate addresses set forth below (or to such other addresses as the party may designate by notice to the other party hereto):

1. If to UA:

Primary Contact:
Debbie Keller
Computer Information Systems
The University of Akron
Akron, Ohio 44325-6002
Phone: (330) 972-5254
Fax: (330) 972-8876
E-mail: keller@uakron.edu.

Alternate Contact:
Janet Kropff
Computer Information Systems
The University of Akron
Akron, Ohio 44325-6002
Phone: (330) 972-2075
Fax: (330) 972-8876
E-mail: jsk3@uakron.edu.

2. If to Customer (Local Academy Administrative Contact):

Name: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
E-mail: _____

3. Alternate contact for Customer (Local Academy Instructor Contact):

Name: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
E-mail: _____

All other directions and information from those other than the primary and alternate contact of Customer must come from: _____

VIII. GENERAL PROVISIONS

A. Successors and Assigns. This Agreement shall be binding upon and shall insure to the benefit of the parties hereto and their respective successors, assigns, heirs and personal representatives.

B. Waiver, Discharge, etc. This Agreement may not be released, discharged, changes or modified in any manner, except by an instrument in writing signed by both parties. The failure of either party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any such provisions, nor in any way to affect the validity of this Agreement or any part hereof or the right of either party hereto to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. Furthermore, the term of any purchase order, invoice or like document issued in conjunction with the Service to be provided herein shall not serve to add to modify the terms of this Agreement.

C. Captions. The captions in this Agreement are inserted only as a matter of convenience and as a reference, and in no way define, limit or describe the scope or intent of this Agreement or any of the provisions hereof.

D. Rights of Person Not Parties. Nothing contained in this Agreement shall be deemed to create rights in persons not parties hereto.

E. Severability. The provisions of this Agreement are severable. If any provision of this Agreement is declared void or invalid by any court of competent jurisdiction, all other provisions of this Agreement shall remain binding.

F. Entire Agreement. This Agreement, together with the documents referred to herein, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writing with respect to such subject matter.

G. Counterparts. This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the parties hereto.

H. Construction. This Agreement and its validity, interpretation and effect shall be construed in accordance with and governed by the laws of the State of Ohio. The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises, this Agreement shall be constructed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring any party by virtue of authorship of any specific provisions of this Agreement. When used in this Agreement, the word "including" shall mean including without limitation. Unless the context requires otherwise, any reference to the masculine, feminine and neuter genders include one another.

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I. Compliance with Law. Each party agrees to comply with all governmental laws and regulations applicable to the Services contemplated by this Agreement. Customer agrees to provide such written evidence of the approval of this Agreement as may be required by law.

J. Fully Understand and Freely Enter. The undersigned hereby acknowledge that they have read and understand the foregoing. The parties to this Agreement also acknowledge that the execution of this Agreement is a free and voluntary act, done in belief that this Agreement is fair and reasonable. Finally, the parties acknowledge that they have had the right and opportunity to consult with and obtain advice of independent legal counsel of the parties' own choosing in the negotiation and execution of this Agreement.

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K. By signing below, Signatory of Customer ("Signatory") certifies authorization to sign on behalf of Customer and certifies having read, understood and agreed to the terms of this Agreement, including the provisions of Exhibits A, B, & C attached and incorporated herein by reference. Signatory certifies that all information provided by Customer in connection with this Agreement is true and accurate. If Customer is a Board of Education of a school district (a political subdivision of the State of Ohio), Signatory certifies that this Agreement has been approved by formal resolution of its Board of Education; if Customer is another educational entity, Signatory certifies that the Agreement has been approved by formal action of its Board.

IN WITNESS WHEREOF, the parties have executed the Agreement to be effective on the date first set forth above.

CUSTOMER:

Printed name of Customer

Authorized Signature for Institution

Date

Title

Date

THE UNIVERSITY OF AKRON:
Recommended by:

Stanley Silverman
Dean, Community and Technical College

Date

Approved by:

Senior Vice President and Provost

Date

Approved for legal form and sufficiency:

M. Celeste Cook
Associate General Counsel

Date

Exhibit A
Responsibilities of the Regional Academy

A. Resources. Regional Academy agrees that it has all resources required by the Quality Assurance Program (QAP) to support the Local Academy's operation of the Program.

B. Screening. Regional Academy agrees that it will ensure to a reasonable certainty the ability of the Local Academy to meet all Local Academy requirements listed in the QAP prior to admitting them to the Program.

C. Support. Regional Academy agrees that it will provide the Local Academy with:

- Access to the Curriculum for instructional use only.
- "Cisco Academy" Phone and Email Technical Support
- Periodic Update meetings hosted at UA
- Access to a shared ftp site for instructors
- Other services may be available at an additional charge, including local consulting.

D. Training. Regional Academy agrees that it will provide the Local Academy with all required training at an additional cost per instructor. However, UA reserves the right not to offer instructor training for business and/or academic necessity as determined solely by UA. In such situation, UA will notify the Local Academy of which course(s) will not be offered. Should a Local Academy instructor require training and cost recovery for the Regional Academy is not possible, the Local Academy will be responsible for the cost of sending the Local Academy instructor to a Cisco Academy Training Center and paying training costs for that training center as well as all associated travel costs.

Service and Training Fees

A district cannot operate as a Local Academy without being associated with a Regional Academy. UA provides basic support for one fee. Instructor training is a separate fee. Training Fees from UA for training associated with the Cisco Networking Academy Program for an additional fee.

Support (Check all that apply. At least one item must be selected.)

- _____ Basic Wireless Support \$500
- _____ Basic Security Support \$500

Training

- Instructor is based on the daily rate of \$115 per day per instructor. Seating for training will be available on a priority basis.

Other services may be contracted at an additional cost as negotiated, including

- Setup of server(s) and classroom onsite for Cisco curriculum delivery

Exhibit B
Responsibilities of the Local Academy

A. Program Quality and Responsibilities. The Local Academy agrees to meet the quality requirements and perform the Local Academy duties stated in Cisco's Quality Assurance Plan (QAP).

B. Academy Instructor. The local academy shall maintain, at a minimum, one trained instructor in each curriculum being taught.

C. Records and Reports. The Local Academy shall keep full, true, and accurate records and accounts, in accordance with generally accepted accounting principles, of all Program operations. The Local Academy shall respond to Regional Academy inquiries within two (2) business days of request.

D. Compensation and Benefits. The Local Academy agrees that neither Regional Academy nor Cisco is responsible for any compensation and benefits to be provided to the Local Academy personnel. Instructor must be available for training by the Regional Academy. It is believed that this will require an extended time contract for Local Academy Instructors, and will likely involve training during the summer weeks.

E. Compliance with Laws. The Local Academy represents and warrants that all consents of governmental officials necessary for the Agreement to become effective, and for the Local Academy to comply with its terms, have been obtained, or will be obtained, before the Local Academy accesses the course material or places any orders related to this Agreement. The Local Academy will comply, at its own expense, with all laws, regulations, rules, ordinances, and orders of, and obtain all licenses, permits and approvals required by, any government body, department, or agency that apply to or result from its obligations under this Agreement, including any applicable requirements under telecommunications laws and regulations and any export restrictions imposed by the U.S. Government. The Local Academy shall not send or transmit, directly or indirectly, any products, equipment, material, or technical data (including processes and services) received from Regional Academy or Cisco outside the United States without the prior authorization of the U.S. Government where such authorization is required. Cisco copyrights all curriculums and districts must abide by copyright laws.

F. Sales Tax Liability. Any applicable sales tax liability associated with selling training services and products is the responsibility of the Local Academy.

G. Indemnification. The Local Academy agrees to defend, indemnify, and hold harmless the Regional Academy and Cisco from and against any and all claims, losses, damages, liabilities, and expenses (including reasonable attorneys' fees) as a result of any third party claim, judgment, or adjudication against Regional Academy or Cisco resulting from the Local Academy's implementation of the Program or breach of this Agreement, except to the extent that any such claims, losses, damages, liabilities, or expenses are due solely to the negligent or intentional act(s) of Regional Academy or Cisco, or their officers, employees, or agents. In the event that Cisco or Regional Academy receive notice of a claim based upon the Local Academy's breach, Regional Academy or Cisco will promptly notify the

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Local Academy in writing of such claim and will permit The Local Academy to have the sole control of the defense of any such claim or action and all negotiations for its settlement and compromise, provided adequate assurance is given to Regional Academy and Cisco that the Local Academy will diligently pursue resolution of the claim. Liability of student work is covered under local policies.

H. Misrepresentation Warranty. The Local Academy shall not make any warranty commitment concerning the Course Material, whether written or oral, on Cisco or Regional Academy's behalf. The Local Academy shall indemnify Regional Academy and Cisco for any claims, losses, damages, liabilities, or expenses resulting from any such warranty commitment made by the Local Academy and for any misrepresentation of Course Material.