

AT&T INFORMATION SYSTEMS INC.
SOFTWARE AGREEMENT

1. AT&T INFORMATION SYSTEMS INC., a Delaware corporation ("AT&T-IS"), having an office at 100 Southgate Parkway, Morristown, New Jersey 07960, and GATES RUBBER COMPANY, a Colorado corporation-----
having an office at 900 S. Broadway, Denver, Colorado 80217
(P. O. Box 5887)-----
for itself and its SUBSIDIARIES (collectively referred to herein as "LICENSEE") agree that, after execution of this Agreement by LICENSEE and acceptance of this Agreement by AT&T-IS, the terms and conditions set forth on pages 1 through 8 of this Agreement shall apply to use by LICENSEE of computer programs (in source-code form) and documentation from the UNIX® System Toolchest that are delivered to LICENSEE hereunder ("SOFTWARE PRODUCTS") and to sublicensing by LICENSEE of computer programs (in object-code form only) and documentation ("SUBLICENSSED PRODUCTS") based on SOFTWARE PRODUCTS. Certain SOFTWARE PRODUCTS available under this Agreement may contain materials prepared by other developers.

2. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided herein or as duly set forth on or subsequent to the date of acceptance hereof in writing and signed by a proper and duly authorized representative of the party to be bound thereby. No provision appearing on any form originated by LICENSEE shall be applicable unless such provision is expressly accepted in writing by an authorized representative of AT&T-IS.

Accepted by:

GATES RUBBER COMPANY

AT&T INFORMATION
SYSTEMS INC.

By R.D. McFadden 2/15/90
(Signature) (Date)

By O. L. Wilson MAR 01 1990
(Signature) (Date)

R.D. McFadden
(Type or print name)

O. L. WILSON
(Type or print name)

V.P., Adv. Tech. & Eng.
(Title)

Manager, UNIX® Software Licensing
(Title)

I. USE OF SOFTWARE PRODUCTS

1.01 AT&T-IS grants to LICENSEE a personal, nontransferable and nonexclusive right to use in the United States each SOFTWARE PRODUCT, solely for LICENSEE'S own internal business purposes. Such right to use includes the right to copy such SOFTWARE PRODUCT, to modify such SOFTWARE PRODUCT and to prepare derivative works based on such SOFTWARE PRODUCT, provided that any such modification or derivative work that contains any part of a SOFTWARE PRODUCT is treated hereunder the same as such SOFTWARE PRODUCT. AT&T-IS claims no ownership interest in any portion of such a modification or derivative work that is not part of a SOFTWARE PRODUCT.

1.02 (a) LICENSEE may permit access to SOFTWARE PRODUCTS by its contractors and allow use of SOFTWARE PRODUCTS by its contractors on LICENSEE'S CPUs, provided such access and use is exclusively for LICENSEE in connection with work called for in written agreements between LICENSEE and such contractors in accordance with Section 1.02(f) of this Agreement. LICENSEE may furnish SOFTWARE PRODUCTS to contractors for use on their CPUs.

(b) Any claim, demand or right of action arising on behalf of a contractor from the furnishing to it or use by it of SOFTWARE PRODUCTS shall be solely against LICENSEE.

(c) Contractors shall agree to the same responsibilities and obligations and other restrictions pertaining to the use of SOFTWARE PRODUCTS as those undertaken by LICENSEE under this Agreement.

(d) When a contractor's work for LICENSEE is completed, all copies of SOFTWARE PRODUCTS furnished to such contractor or made by such contractor and all copies of any modifications or derivative works made by such contractor based on such SOFTWARE PRODUCT shall be returned to LICENSEE or destroyed, including any copies stored in any computer memory or storage medium.

(e) A contractor may not acquire any ownership interest in any modification or derivative work prepared by such contractor based on or using a SOFTWARE PRODUCT unless such contractor also becomes a licensee of AT&T-IS for such SOFTWARE PRODUCT.

(f) LICENSEE and any such contractor shall enter into a written agreement before or at the time of permitting access to or allowing use of any SOFTWARE PRODUCT by a contractor or furnishing a SOFTWARE PRODUCT to a contractor. Such written agreement shall be consistent with the requirements of this Section 1.02. Copies of such agreements shall be provided to AT&T-IS on request; however, portions of such agreements not required by this Section may be deleted from such copies.

1.03 Except as provided in Sections 1.02 and 2.01, no right is granted by this Agreement for the use of SOFTWARE PRODUCTS directly for others, or for any use of SOFTWARE PRODUCTS by others.

II. SUBLICENSING

2.01 Conditional on payment by LICENSEE to AT&T-IS of a sublicensing fee for each SOFTWARE PRODUCT on which a SUBLICENSED PRODUCT is based, AT&T-IS grants to LICENSEE personal, nontransferable and nonexclusive rights to make copies of SUBLICENSED PRODUCTS and to furnish, either directly or through distributors, such copies of SUBLICENSED PRODUCTS to customers anywhere in the world (subject to LICENSEE or its distributor satisfying U.S. government export requirements) for use on customer computers, provided that the entity (LICENSEE or a distributor) furnishing the SUBLICENSED PRODUCTS obtains agreement as specified in Section 2.02 from such a customer, before or at the time of furnishing each copy of a SUBLICENSED PRODUCT, that:

- (i) only a personal, nontransferable and nonexclusive right to use such copy of the SUBLICENSED PRODUCT is granted to such customer;
- (ii) no title to the intellectual property in the SUBLICENSED PRODUCT is transferred to such customer;
- (iii) such customer will not copy the SUBLICENSED PRODUCT except as necessary to use such SUBLICENSED PRODUCT;
- (iv) such customer will not transfer the SUBLICENSED PRODUCT to any other party except as authorized by the entity furnishing the SUBLICENSED PRODUCT;
- (v) such customer will not export or re-export the SUBLICENSED PRODUCT without the appropriate United States or foreign government licenses;
- (vi) such customer will not reverse compile or disassemble the SUBLICENSED PRODUCT; and
- (vii) the SUBLICENSED PRODUCT is derived from third-party software and that no such third party warrants the SUBLICENSED PRODUCT, assumes any liability regarding use of the SUBLICENSED PRODUCT or undertakes to furnish any support or information relating to the SUBLICENSED PRODUCT.

2.02 In the United States and in other jurisdictions where an enforceable copyright covering the computer programs of a SUBLICENSED PRODUCT exists, the agreement specified in Section 2.01 may be a written agreement signed by the customer or a written agreement on or accompanying the package containing the SUBLICENSED PRODUCT that is fully visible to the customer before the package is opened, that is accepted by the customer by opening the package and that complies with applicable law relating to agreements of such type. In all other jurisdictions such agreement must be a written agreement signed by the customer. AT&T-IS does not undertake to inform LICENSEE of the jurisdictions where such copyright exists.

2.03 LICENSEE shall require each distributor to enter into a written agreement with its supplier of SUBLICENSED PRODUCTS (LICENSEE or another distributor) before any SUBLICENSED PRODUCT is furnished to such distributor. Such agreement shall include provisions consistent with and containing the relevant substance of this Article II.

2.04 LICENSEE or a distributor may modify and make copies of SUBLICENSED PRODUCTS, select a name for SUBLICENSED PRODUCTS to appear on such copies (consistent with the provisions of Section 7.02), and furnish such copies to customers and other distributors.

2.05 LICENSEE shall use its best efforts to enforce any agreements with distributors and customers entered into pursuant to this Agreement.

2.06 If a distributor fails to fulfill one or more of its obligations under the agreement required by Section 2.03, AT&T-IS may, upon its election and in addition to any other remedies that it may have, at any time notify LICENSEE in writing of such breach and require LICENSEE to terminate all the rights granted in such agreement by not less than two (2) months' written notice to such distributor specifying any such breach, unless within the period of such notice all breaches specified therein shall have been remedied; upon such termination such distributor shall within thirty (30) days immediately discontinue use of and return or destroy all copies of SUBLICENSED PRODUCTS in its possession.

2.07 (a) Any notice acknowledging a contribution of a third party appearing in a SOFTWARE PRODUCT shall be included in corresponding portions of SUBLICENSED PRODUCTS made by LICENSEE or distributors.

(b) Each portion of a SUBLICENSED PRODUCT shall include an appropriate copyright notice. Such copyright notice may be the copyright notice or notices appearing in or on the corresponding portions of the SOFTWARE PRODUCT on which such SUBLICENSED PRODUCT is based or, if copyrightable changes are made in developing such SUBLICENSED PRODUCT, a copyright notice identifying the owner of such changes.

III. ORDERING AND DELIVERY

3.01 LICENSEE shall authorize certain of its employees to place orders hereunder. Such authorized employees may order delivery of SOFTWARE PRODUCTS and elect to sublicense SUBLICENSED PRODUCTS by remote access to AT&T-IS'S inquiry computer.

3.02 After an order has been received and at a time chosen to minimize transmission costs, AT&T-IS will deliver the ordered SOFTWARE PRODUCTS to LICENSEE by remote access to LICENSEE'S computer.

3.03 Details relating to right-to-use and sublicensing fees for SOFTWARE PRODUCTS, authorization of employees, placing of orders, delivery of SOFTWARE PRODUCTS and security procedures related thereto are set forth in materials that will be furnished separately to LICENSEE.

IV. EXPORT

4.01 LICENSEE agrees that it will not, without the prior written consent of AT&T-IS, export, directly or indirectly, SOFTWARE PRODUCTS to any country outside of the United States. LICENSEE also agrees that it will obtain any and all necessary export licenses for any such export or for any disclosure of a SOFTWARE PRODUCT to a foreign national.

V. FEES AND TAXES

5.01 Within thirty (30) days after acceptance of this Agreement by AT&T-IS, LICENSEE shall pay to AT&T-IS an initial fee of \$100.00.

5.02 AT&T-IS will mail invoices to LICENSEE (at an address to be specified by LICENSEE) for SOFTWARE PRODUCTS. Each such invoice will include applicable right-to-use fees, sublicensing fees, transmission costs and taxes. LICENSEE shall pay the amount of each such invoice within thirty (30) days of the date thereof.

5.03 Payments to AT&T-IS shall be made in United States dollars to AT&T-IS at the address specified in Section 7.09(a).

5.04 LICENSEE shall pay all taxes, including any sales or use tax (and any related interest or penalty), however designated, imposed as a result of the existence or operation of this Agreement, except any income tax imposed upon AT&T-IS by any governmental entity within the United States proper (the fifty (50) states and the District of Columbia). If AT&T-IS is required to collect a tax to be paid by LICENSEE, LICENSEE shall pay such tax to AT&T-IS on demand.

5.05 Payments provided for in this Agreement shall, when overdue, be subject to a late payment charge calculated at an annual rate of three percent (3%) over the posted prime rate or successive posted prime rates in effect in New York City during delinquency; provided, however, that if the amount of such late payment charge exceeds the maximum permitted by law for such charge, such charge shall be reduced to such maximum amount.

VI. TERM

6.01 This Agreement shall become effective on and as of the date of acceptance by AT&T-IS.

6.02 LICENSEE may terminate its rights under this Agreement by written notice to AT&T-IS certifying that LICENSEE has discontinued use of and returned or destroyed all copies of SOFTWARE PRODUCTS and SUBLICENSED PRODUCTS.

6.03 If LICENSEE fails to fulfill one or more of its obligations under this Agreement, AT&T-IS may, upon its election and in addition to any other remedies that it may have, at any time terminate all the rights granted by it hereunder by not less than two (2) months' written notice to LICENSEE specifying any such breach, unless within the period of such notice all breaches specified therein shall have been remedied; upon such termination LICENSEE shall immediately discontinue use of and return or destroy all copies of SOFTWARE PRODUCTS and immediately destroy all copies of SUBLICENSED PRODUCTS in its possession.

6.04 In the event of termination of rights under Sections 6.02 or 6.03, AT&T-IS shall have no obligation to refund any amounts paid to it under this Agreement.

6.05 LICENSEE agrees that when a SUBSIDIARY'S relationship to LICENSEE changes so that it is no longer a SUBSIDIARY of LICENSEE, (i) all rights of such former SUBSIDIARY to use SOFTWARE PRODUCTS shall immediately cease, and (ii) such former SUBSIDIARY shall immediately discontinue use of and return to LICENSEE or destroy all copies of SOFTWARE PRODUCTS. However, a former SUBSIDIARY, or a former distributor not in breach of its obligations to LICENSEE, may continue to use copies of SUBLICENSED PRODUCTS on the same basis that a customer may use SUBLICENSED PRODUCTS pursuant to Section 2.01.

VII. MISCELLANEOUS PROVISIONS

7.01 AT&T-IS warrants that it is empowered to grant the rights granted hereunder. AT&T-IS and other developers make no other representations or warranties, expressly or impliedly. By way of example but not of limitation, AT&T-IS and other developers make no representations or warranties of merchantability or fitness for any particular purpose, or that the use of any SOFTWARE PRODUCT will not infringe any patent, copyright or trademark. AT&T-IS and other developers shall not be held to any liability with respect to any claim by LICENSEE, or a third party on account of, or arising from, the use of any SOFTWARE PRODUCT.

7.02 (a) In advertising, publicity, packaging, labeling or otherwise for any SUBLICENSED PRODUCT hereunder, LICENSEE and its distributors shall state that such SUBLICENSED PRODUCT contains computer programs based on UNIX System Toolchest with appropriate identification for the mark "UNIX".

(b) No right is granted herein to use any identifying mark (such as, but not limited to, trade names, trademarks, trade devices, service marks or symbols, and abbreviations, contractions or simulations thereof) owned by, or used to identify any product or service of, AT&T-IS or a corporate affiliate thereof. LICENSEE agrees that, except as provided in Section 7.02(a), it will not, without the prior written permission of AT&T-IS, (i) use any such identifying mark in advertising, publicity, packaging, labeling or in any other manner to identify any of its products or services or (ii) represent, directly or indirectly, that any product or service of LICENSEE is a product or service of AT&T-IS or such an affiliate or is made in accordance with or utilizes any information or documentation of AT&T-IS or such an affiliate.

7.03 Neither the execution of this Agreement nor anything in it or in any SOFTWARE PRODUCT shall be construed as an obligation upon AT&T-IS or any other developer to furnish any person, including LICENSEE, any assistance of any kind whatsoever, or any information or documentation other than the SOFTWARE PRODUCTS to be delivered pursuant to Section 3.02.

7.04 (a) LICENSEE agrees that it shall hold all parts of SOFTWARE PRODUCTS in confidence for AT&T-IS. LICENSEE further agrees that it shall not make any disclosure of any or all of SOFTWARE PRODUCTS (including methods or concepts utilized therein) to anyone, except to employees and contractors of LICENSEE to whom such disclosure is necessary to the use for which rights are granted hereunder. LICENSEE shall appropriately notify each employee to whom any such disclosure is made that such disclosure is made in confidence and shall be kept in confidence by such employee. If information relating to a SOFTWARE PRODUCT at any time becomes available without restriction to the general public by acts not attributable to LICENSEE, its contractors or employees of either, LICENSEE'S obligations under this section shall not apply to such information after such time.

(b) Notwithstanding the provisions of Section 7.04(a), LICENSEE may distribute copies of a SOFTWARE PRODUCT, either in modified or unmodified form, to third parties having licenses of equivalent scope herewith from AT&T-IS (or a corporate affiliate or authorized distributor thereof) for the same SOFTWARE PRODUCT, provided that LICENSEE first verifies the status of the recipient by calling AT&T-IS at 800-828-8649 (or other number specified by AT&T-IS). AT&T-IS will give oral verification of the recipient's status for recipients in the United States and written verification for recipients outside the United States. LICENSEE shall maintain a record of each such distribution and, for each quarterly period (ending on March 31st, June 30th, September 30th and December 31st) during which any such distribution occurs, forward a copy of such record for such period to AT&T-IS at the correspondence address specified in Section 7.09(b) within thirty (30) days of the end of such period. Such record shall include, for each such distribution, the identity of the recipient, the date of verification, the name of the person at AT&T-IS providing verification and the date of distribution. LICENSEE may also obtain materials based on a SOFTWARE PRODUCT subject to this Agreement from such a third party and use such materials pursuant to this Agreement, provided that LICENSEE treats such materials hereunder the same as such SOFTWARE PRODUCT.

7.05 The obligations of LICENSEE and its employees under Section 7.04(a) shall survive and continue after any termination of rights under this Agreement or cessation of a SUBSIDIARY'S status as a SUBSIDIARY.

7.06 LICENSEE agrees that it will not use SOFTWARE PRODUCTS or SUBLICENSED PRODUCTS except as authorized herein and that it will not make, have made or permit to be made any copies of SOFTWARE PRODUCTS or SUBLICENSED PRODUCTS except as necessary to exercise its rights granted herein. Each such copy shall contain any copyright notice, proprietary notice or notice giving credit to another developer, which appears on or in the SOFTWARE PRODUCT or SUBLICENSED PRODUCT being copied.

7.07 Neither this Agreement nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by LICENSEE and any purported assignment or transfer shall be null and void.

7.08 Except as provided in Section 7.04(b), nothing in this Agreement grants to LICENSEE the right to sell, lease or otherwise transfer or dispose of a SOFTWARE PRODUCT in whole or in part.

7.09 (a) Payments to AT&T-IS under this Agreement shall be made payable and sent to:

AT&T INFORMATION SYSTEMS
P.O. Box 65080
Charlotte, North Carolina 28265

(b) Correspondence with AT&T-IS relating to this Agreement shall be sent to:

AT&T INFORMATION SYSTEMS
UNIX® Software Licensing
P.O. Box 25000
Greensboro, North Carolina 27420

(c) Any notice, request or other communication shall be deemed to be sufficiently given to the addressee and any delivery hereunder deemed made when sent by certified mail addressed to LICENSEE at its office specified in this Agreement or to AT&T-IS at the appropriate address specified in this Section 7.09. Each party to this Agreement may change an address relating to it by written notice to the other party. Invoices will be mailed to the address specified pursuant to Section 5.02.

7.10 If LICENSEE is not a corporation, all references to LICENSEE'S SUBSIDIARIES shall be deemed deleted.

7.11 The construction and performance of this Agreement shall be governed by the law of the State of New York.