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Attorneys for Defendant/Counterclaim-Plaintiff International Business Machines Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

-against-

INTERNATIONAL BUSINESS MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

DECLARATION OF OTIS L. WILSON

I, Otis L. Wilson, declare as follows:

1. I was responsible for licensing operating systems under the UNIX brand from 1980 until 1991, first with American Telephone and Telegraph Company ("AT&T") and then with its subsidiary, UNIX System Laboratories, Inc. ("USL"). Initially, I was on the staff responsible for negotiating license agreements with our customers. From 1983 until I retired in 1991, I was the head of the group responsible for licensing the UNIX System V operating system worldwide.

2. This declaration is submitted in connection with the lawsuit entitled The SCO Group, Inc. v. International Business Machines Corporation, Civil Action No. 2:03CV-0294 DAK (D. Utah 2003). Except as stated otherwise, this declaration is based upon personal knowledge and review of the documents referenced herein.

3. In Section I of this declaration, I describe my roles and responsibilities regarding Unix operating systems. In Section II, I describe my understanding of the confidentiality provisions of these license agreements. In Section III, I describe my understanding of the modifications and derivative works provisions of the license agreements. In Section IV, I describe my understanding of the exception to the confidentiality provisions for information that becomes available without restriction to the general public. In Section V, I describe my understanding of the most-favored customer provisions in certain of the license agreements. Finally, in Section VI, I discuss plaintiff's allegations that source code, derivative works and methods were transferred in violation of the license agreements.

I. Roles and Responsibilities Regarding Unix

4. I joined AT&T in 1963. In 1980, after completing a company-sponsored management training program, I left the Princeton office of AT&T to join the Patent and Licensing Group in Greensboro, North Carolina. I was responsible for licensing operating systems under the UNIX brand beginning in 1980. Initially, I was on the staff responsible for negotiating license agreements with our customers. Beginning in 1983 until I retired in 1991, I was the head of the group responsible for licensing the UNIX System V operating system worldwide. During that time, I reported to Michael J. DeFazio.

5. In 1989, AT&T separated the organizations responsible for UNIX System V, and associated system software products and services, into a business unit called UNIX Software Operation. In 1991, rights to Unix operating systems and related products, technology and intellectual property were transferred to USL. I was head of the licensing group throughout this period, until I retired in 1991. During the period from 1980 to 1991, AT&T and USL licensed UNIX System V source code to hundreds of licensees. Nearly every Unix license agreement executed by AT&T during this period was signed by me or on my behalf by people that reported to me.

6. The UNIX System V source code license agreements generally included a number of "standard" form agreements with each licensee. The standard software agreement granted the licensee the right to use and modify the source code for its own internal business purposes. In addition, many licensees were parties to sublicensing agreements, which granted the licensee the right to furnish sublicensed products based on UNIX System V to customers in object code format. A substitution

agreement provided that the software agreement and, if applicable, the sublicensing agreement, replaced earlier agreements relating to UNIX System V software.

7. I am familiar with the following license agreements between International Business Machines Corporation ("IBM") and AT&T Technologies, Inc. ("AT&T Technologies"), which were negotiated under my supervision while I was head of the licensing group:

- the Software Agreement (Agreement Number SOFT-00015) dated February 1, 1985 (the "IBM Software Agreement");
- the Sublicensing Agreement (Agreement Number SUB-00015A) dated February 1, 1985 (the "IBM Sublicensing Agreement");
- the Substitution Agreement (Agreement Number XFER-00015B) dated February 1, 1985 (the "IBM Substitution Agreement"); and
- the letter agreement dated February 1, 1985 (the "IBM Side Letter").

David W. Frasure, who reported to me, signed these agreements for me on behalf of AT&T Technologies. True and correct copies of these agreements are attached hereto as Exhibits 1 through 4. I refer to these agreements as the "IBM Related Agreements."

8. I am also familiar with the following agreements between Sequent Computer Systems, Inc. ("Sequent") and AT&T Technologies, Inc., which were also negotiated under my supervision:

- the Software Agreement (Agreement Number SOFT-000321) dated April 18, 1985 (the "Sequent Software Agreement");
- the Sublicensing Agreement (Agreement Number SUB-000321A) dated January 28, 1986 (the "Sequent Sublicensing Agreement"); and
- the Substitution Agreement (Agreement Number XFER-000321B) dated January 28, 1986 (the "Sequent Substitution Agreement").

I signed these agreements on behalf of AT&T Technologies, Inc. True and correct copies of these agreements are attached hereto as Exhibits 5 through 7. I refer to these

agreements as the "Sequent Related Agreements." I understand that Sequent has been acquired by, and merged into, IBM.

9. As a result of my role as head of the group responsible for negotiating the IBM Related Agreements and the Sequent Related Agreements, and hundreds of other UNIX System V license agreements, I have a thorough understanding of these agreements and what the parties intended them to accomplish.

II. Confidentiality Restrictions in the License Agreements

10. The standard software agreement used for licensing the UNIX System V operating system while I headed the licensing group imposed confidentiality restrictions on the licensee. Specifically, Section 7.06(a) of the standard software agreement included the following language prohibiting the licensee from disclosing the UNIX System V source code obtained from AT&T:

> LICENSEE agrees that it shall hold all parts of the SOFTWARE PRODUCTS subject to this Agreement in confidence for AT&T. LICENSEE further agrees that it shall not make any disclosure of any or all of such SOFTWARE PRODUCTS (including methods or concepts utilized therein) to anyone, except to employees of LICENSEE to whom such disclosure is necessary to the use for which rights are granted hereunder.

This prohibition is subject to a number of important exceptions. For example, the confidentiality obligations do not apply to any information relating to a software product that "becomes available without restriction to the general public by acts not attributable to LICENSEE or its employees," as is discussed in Section IV below.

11. The purpose of Section 7.06(a) was to require licensees to keep the UNIX System V source code confidential. However, we recognized that we might not be able to protect effectively the confidentiality of our software because we distributed the source code and related information so broadly. In particular, the more time that passed

after the release of a particular version of the software, the less likely it was that the version would contain any information that remained confidential.

12. Some licensees sought to clarify the confidentiality restrictions of Section 7.06(a). For example, Paragraph A.9 of the IBM Side Letter clarified the confidentiality provision of the IBM Software Agreement in a number of important respects.

13. First, Paragraph A.9 of the Side Letter deleted the phrase "all parts of" from the first sentence. This deletion clarified that IBM would not be held in breach of the confidentiality provision for immaterial disclosures.

14. Second, Paragraph A.9 of the IBM Side Letter deleted the parenthetical "(including methods or concepts utilized therein)" from the second sentence. In fact, we were not aware of any particular "methods or concepts" that needed to be protected. We made up this phrase as sort of a general catch-all. We were willing to delete the reference to methods and concepts in the IBM agreement because we were not aware of any UNIX System V methods or concepts that required protection. The fact was that we had distributed the UNIX System V source code so broadly that the internal structure of the UNIX System V operating system was well known in the academic community and by computer programmers generally. This is because AT&T had deliberately distributed the UNIX System V source code widely, and under terms favorable to AT&T's customers (especially universities), in order to promote UNIX System V as a standard operating system.

15. Finally, Paragraph A.9 of the IBM Side Letter included a provision expressly stating that:

> Nothing in this agreement shall prevent LICENSEE from developing or marketing products or services employing ideas, concepts, know-how or techniques relating to data processing embodied in SOFTWARE PRODUCTS subject to this Agreement, provided that LICENSEE shall not copy any code from such SOFTWARE PRODUCTS into any such product or in connection with any such service and employees of LICENSEE shall not refer to the physical documents and materials comprising SOFTWARE PRODUCTS subject to this Agreement when they are developing any such product or service or providing any such service.

This language clarified that IBM was not subject to any confidentiality obligations with respect to UNIX System V ideas, concepts, know-how, methods and techniques.

16. As clarified by its side letter, IBM had no confidentiality obligation with respect to any UNIX System V information, other than to refrain from disclosing the actual UNIX System V source code provided by AT&T or USL, and to refrain from referring to that source code while developing or providing products or services. IBM was free to use and disclose any of the ideas, concepts, know-how, methods or techniques embodied in the software products.

17. I did not view these changes as substantive--they were all clarifications. Even though we may have entered into side letters or other agreements with a number of licensees that clarified the confidentiality restrictions and other provisions in the standard software agreement, my intent was always to treat all licensees the same. In fact, clarifications provided to particular licensees in side letters were generally shared with other licensees through informal interpretive guidance that was provided either orally or in writing. In any event, our intent was always to treat all licensees equally, so that relief from the confidentiality restrictions provided to one licensee in a side letter benefited all licensees. All licensees, including Sequent, which

did not have a side letter like IBM, were treated the same and would have the benefit of the same clarifications.

III. Modifications and Derivative Works

18. In early versions of the standard software agreement, including the IBM Software Agreement and the Sequent Software Agreement, Section 2.01 included the following language regarding modifications and derivative works:

> Such right to use includes the right to modify such SOFTWARE PRODUCT and to prepare derivative works based on such SOFTWARE PRODUCT, provided the resulting materials are treated hereunder as part of the original SOFTWARE PRODUCT.

19. This provision was intended to ensure that if a licensee were to create a modification or derivative work based on UNIX System V, any material portion of the original UNIX System V source code provided by AT&T or USL that is included in the modification or derivative work would remain subject to the confidentiality restrictions of the software agreement. Any source code developed by or for a licensee and included in a modification or a derivative work would not constitute "resulting materials" to be treated as part of the original software product, except for any material proprietary UNIX System V source code provided by AT&T or USL and included therein.

20. AT&T and USL did not intend to assert ownership or control over modifications and derivative works prepared by licensees, except to the extent of the original UNIX System V source code included in such modifications and derivative works. While the UNIX System V source code provided by AT&T or USL contained in a modification or derivative work continued to be owned by AT&T or USL, the code developed by or for the licensee remained the property of the licensee.

21. I do not believe that our licensees would have been willing to enter into the software agreement if they understood Section 2.01 to grant AT&T or USL (or their successors or assigns) the right to own or control source code developed by the licensee or provided to the licensee by a third party. I understood that many of our licensees invested substantial amounts of time, effort and creativity in developing products based on UNIX System V. The derivative works provision of the software agreement was not meant to appropriate for AT&T or USL the technology developed by our licensees.

22. In fact, some licensees sought to clarify that, under the agreements, the licensee, not AT&T or USL (or their successors or assigns), would own and control modifications and derivative works prepared by or for the licensee (except for any original UNIX System V source code provided by AT&T or USL and included therein). We provided such clarification, when asked, because that is what we understood the language in the standard software agreement to mean in any event. As discussed above, in some cases we provided this clarification orally and in some cases we provided it in writing.

23. We provided IBM with such a clarification in Paragraph A.2 of the IBM Side Letter:

> Regarding Section 2.01, we agree that modifications and derivative works prepared by or for [IBM] are owned by [IBM]. However, ownership of any portion or portions of SOFTWARE PRODUCTS included in any such modification or derivative work remains with [AT&T].

I understood this language to mean that IBM, not AT&T, would have the right to control modifications and derivative works prepared by or for IBM. IBM (like all licensees under the agreements) fully owns any modifications of and derivative works based on

UNIX System V prepared by or for IBM, and can freely use, copy, distribute or disclose such modifications and derivative works, provided that IBM does not copy, distribute or disclose any material portions of the original UNIX System V source code provided by AT&T or USL (except as permitted by the IBM Related Agreements).

24. Clarifications of the kind reflected in Paragraph A.2 of the IBM Side Letter did not represent a substantive change to the standard software agreement, since AT&T and USL never intended to assert ownership or control over modifications and derivative works prepared by licensees, except to the extent of any material portions of the original UNIX System V source code provided by AT&T or USL and included in such modifications and derivative works.

25. Eventually, we revised the standard software agreement to clarify the derivative works issue. For example, Section 2.01 of a software agreement between AT&T Information Systems Inc. and The Santa Cruz Operation, Inc. entered into in May 1987, a true and correct copy of which is attached hereto as Exhibit 8, included the following language:

> Such right to use includes the right 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 subject to this Agreement* 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.* (emphasis added)

26. Whether or not we entered into a side letter to clarify the treatment of modifications and derivative works, or altered the language of Section 2.01, AT&T's and USL's intent was always the same. We never intended to assert ownership or control over any portion of a modification or derivative work that was not part of the original UNIX System V source code provided by AT&T or USL. The licensee was free to use,

copy, distribute or disclose such modifications and derivative works, provided that it did not copy, distribute or disclose any portions of the original UNIX System V source code provided by AT&T or USL (except as permitted by the license agreements).

27. My understanding is that IBM's AIX and Sequent's Dynix/PTX operating system products include some UNIX System V source code. I do not know whether AIX and Dynix/PTX are sufficiently similar to UNIX System V that they would constitute modifications of, or derivative works based on, UNIX System V. However, even if AIX or Dynix/PTX were modifications of, or derivative works based on, UNIX System V, IBM and Sequent are free to use, copy, distribute, or disclose AIX and Dynix/PTX source code, provided that they do not copy, distribute or disclose any portions of the original UNIX System V source code provided by AT&T or USL (except as permitted by the IBM Related Agreements or the Sequent Related Agreements). Therefore, IBM and Sequent are free, under the IBM Related Agreements and the Sequent Related Agreements, to open source all of AIX and Dynix/PTX other than those portions of the original UNIX System V source code provided by AT&T or USL and included therein. Even portions of the original UNIX System V source code included in AIX and Dynix/PTX may be open sourced to the extent permitted by the IBM Related Agreements or the Sequent Related Agreements.

28. I understand that plaintiff claims that IBM and Sequent have breached the IBM Related Agreements and the Sequent Related Agreements by using and disclosing Unix methods, derivative works and modifications in violation of the confidentiality and other restrictions contained in those agreements, irrespective of whether IBM or Sequent have disclosed any specific protected source code copied from

the UNIX System V source code provided by AT&T or USL. In my view, these claims are inconsistent with the provisions of the IBM Related Agreements and the Sequent Related Agreements. I do not believe that anyone at AT&T or USL intended these agreements to be construed in this way. In all cases, modifications and derivative works are not subject to the confidentiality and other restrictions contained in the license agreements (except for any protected UNIX System V source code provided by AT&T or USL actually included therein) because they are owned by the licensees.

IV. Available without Restriction to the General Public

29. As discussed above, because AT&T and USL intended to widely distribute the UNIX System V source code and related information, we understood that it would be difficult to require that the code and related information be kept confidential. Since we believed that our licensees held the same view, the standard software agreements provided that a licensee would not be required to keep a software product confidential if it became available without restriction to the general public.

30. The exception is set forth in Section 7.06(a) of the standard software agreement:

> If information relating to a SOFTWARE PRODUCT subject to this Agreement at any time becomes available without restriction to the general public by acts not attributable to LICENSEE or its employees, LICENSEE'S obligations under this section shall not apply to such information after such time.

I understood this provision to mean that the licensee was free to disclose, without any restriction whatsoever, any information that became available without restriction to the general public by acts not attributable to that particular licensee.

31. This exception was intended to ensure that the confidentiality restriction applied only to information that needed to be protected--specifically, any trade

secrets embodied in UNIX System V source code provided by AT&T or USL. If part or all of the source code were not entitled to be protected as a trade secret, then such software product (or portion of a software product) would be "available without restriction to the general public" within the meaning of the agreements, and no longer protected by any confidentiality restriction. We did not intend to impose a confidentiality obligation beyond what we could enforce under trade secret law.

32. We never attempted to list all the ways in which source code could become "available without restriction to the general public" within the meaning of the software and related agreements. However, I believe that the UNIX System V source code (or any part thereof) would be available without restriction to the general public if, for example, it were (1) published by a party other than the licensee in question; (2) accessible outside the limits of a confidentiality agreement, such as for download from the internet; (3) available because its owner (whether AT&T, USL or their successors) failed, even if by inadvertence or simple negligence, to take sufficient precautions to ensure that it would remain confidential; (4) distributed so widely that contractual confidentiality restrictions would be insufficient to maintain confidentiality; (5) made available to a third party who had the right to disclose the software product (or any part thereof); or (6) distributed under an open-source license like the GNU General Public License (the "GPL"), a true and correct copy of which is attached hereto as Exhibit 9.

33. Although we sought to protect the confidentiality of the source code by distributing it only under legally binding license agreements that included confidentiality provisions, the UNIX System V source code was distributed to hundreds

of such licensees, and was made available by those licensees to tens of thousands of individuals, including professional software developers, university faculty members and students. Based solely on the breadth of its distribution, I believe it is unlikely that there are many, if any, parts of the UNIX System V source code that could be said still to be confidential.

34. One purpose of distributing the source code to universities was to promote the widespread adoption of Unix operating systems by ensuring that UNIX System V ideas, concepts, know-how, methods and techniques would be widely known and understood by future programmers. AT&T's view was that a large number of Unix-knowledgeable programmers would help foster the adoption of UNIX System V as an industry standard within the information technology marketplace. However, our practice of offering favorable license terms to universities had the effect of making Unix source code available without restriction to the general public. For example, we knew that some universities made the source code available to individual students who were not themselves bound by confidentiality obligations. We also knew that such students often took copies of the source code with them when they graduated. Our practice was not to take action regarding such breaches of the license agreements unless the students sought to commercialize the software, in which case we would require the students to enter into license agreements and pay royalties.

35. We recognized that our goal of promoting the widespread adoption of UNIX System V was inconsistent with our desire to preserve the confidentiality of the source code. However, we were more concerned with promoting the widespread

adoption of UNIX System V, and collecting the associated royalties, than we were with protecting the confidentiality of our source code.

36. Furthermore, AT&T intended Unix to be an "open" operating system, meaning that customers would not be locked in with a particular hardware vendor or a particular operating system vendor. To that end, AT&T published a System V Interface Definition ("SVID"), which provided a complete interface specification that could even be used by AT&T's competitors to develop independently their own Unix-like operating systems. AT&T also created a System V Verification Suite ("SVVS"), which was made available to test the compliance of both sublicensed products based on UNIX System V and other Unix-like operating systems with SVID.

37. It is my understanding that hundreds, and perhaps thousands, of books, articles, internet web-sites and other materials have been published regarding Unix, many of which provide detailed information regarding the design and implementation of the Unix operating system. For example, *Lions' Commentary on UNIX 6th Edition with Source Code*, by John Lions, includes a complete source code listing of AT&T's UNIX Operating System Source Code Level 6. While I was head of the licensing group, we provided copies of the Lions book to our customers, subject to confidentiality restrictions. However, I understand that the Lions book has since been published, with the permission of Santa Cruz, and that it is now available to anyone, with no restriction whatsoever. I also understand that *UNIX Internals, A Practical Approach*, published in 1996 by Steve Pate, then a Senior Kernel Engineer at Santa Cruz, describes in detail the internals of SCO OpenServer Release 5, a Unix operating system that is a sublicensed product based on UNIX System V Release 3.2 ("SVR3.2"). The information

contained in books, articles, internet web-sites and other publications of this kind is "available without restriction to the general public" within the meaning of the software and related agreements and is therefore not subject to any confidentiality restrictions whatsoever.

38. I understand that plaintiff has made certain Unix source code available for download without charge on the internet, without ensuring that the people who download it have entered into legally binding confidentiality agreements (and could reasonably be expected to comply with those agreements). Based on my understanding of the confidentiality provisions, my view is that any such source code is "available without restriction to the general public" and therefore not subject to any confidentiality restrictions whatsoever, even if plaintiff purported to place limited restrictions on use of the downloaded source code (such as that it not be used for commercial purposes).

39. I am also told that, between 1985 and 1996, AT&T Capital Corporation, then a subsidiary of AT&T, sold thousands of used or discontinued AT&T computer systems, hundreds of them from Bell Laboratories, that some of the computers included UNIX System V, Release 3 and Release 4 source code, and that AT&T did not impose any confidentiality restrictions on the purchasers. If this is true, based on my understanding of the license agreements, any of the information on these computer systems would be considered "available without restriction to the general public". Thus, any source code on these machines would not be subject to the confidentiality restrictions in the software and related agreements of any licensee.

40. To the extent a third party acquires the right to disclose part of a software product, that part of the software product would be considered "available

without restriction to the general public" and would no longer be subject to the confidentiality provisions of the software and related agreements. So, for example, AT&T granted IBM the right to disclose UNIX System V ideas, concepts, know-how, methods and techniques embodied in SVR3.2, as discussed above. As a result, IBM may properly disclose any such UNIX System V ideas, concepts, know-how, methods and techniques to anyone, at any time, without restriction. They are, thus, "available without restriction to the general public".

41. In addition, a software product (or any part of a software product) is "available without restriction to the general public" if released, distributed or made available pursuant to an open-source license, like the GPL, which permits the licensee to copy and distribute source code to others without confidentiality restrictions. I understand that plaintiff and its predecessors distributed Linux products pursuant to the GPL for a number of years, and that some of these distributions may have included UNIX System V source code. I do not recall having heard of the GPL while I was employed with AT&T or USL. However, our intent was that if source code were distributed without confidentiality restrictions, it would no longer be subject to any confidentiality restrictions. Whether plaintiff distributed the Unix System V source code pursuant to the GPL deliberately or inadvertantly, the result is the same--the source code is "available without restriction to the general public" and therefore no longer subject to any confidentiality restrictions.

42. I understand that plaintiff has alleged that IBM and Sequent have breached the confidentiality and other restrictions in the IBM Related Agreements and the Sequent Related Agreements. In light of the wide distribution of the UNIX System V

source code, and the enormous amounts of additional information that has become available to the general public regarding the design and implementation of the Unix operating system, I believe that it is unlikely that a significant amount of UNIX System V source code remains subject to confidentiality restrictions.

V. Most-Favored Customer Provision

43. As discussed above, when I headed the Unix licensing group at AT&T and USL, our stated policy was to treat all of our licensees essentially the same. Some of our licensees, including IBM, requested a "most-favored customer" provision to ensure that we would comply with this policy. Paragraph A.12 of the IBM Side Letter provides:

> We agree that all SOFTWARE PRODUCTS, including enhancements to or new versions of existing SOFTWARE PRODUCTS, generally available under the Software Agreement will be made available to you at the fees and under terms, warranties and benefits equivalent to those offered to other licensees.

This language meant that if any other licensee were offered or obtained terms more favorable to the licensee than those contained in the IBM Related Agreements, then IBM would have the advantage of such more favorable terms as if they had been set forth in the IBM Related Agreements. Although not all of our licensees had a side letter or most-favored customer provision, we interpreted our license agreements in light of the collective body of Unix license agreements. For example, the Unix licensing group used the entire body of side letters to provide interpretive guidance to our Unix licensees. Our policy was to deal with a licensee that did not have a most-favored customer provision in a side letter (like Sequent) in the same manner as a licensee (like IBM) that had a side letter with such a provision.

VI. Plaintiff's Allegations Under Section 7.10 of the Software Agreements

44. I understand that plaintiff has alleged that IBM and Sequent have breached Section 7.10 of the IBM Software Agreement and the Sequent Software Agreement by "transferring portions of the Software Product (including System V source code, derivative works and methods based thereon) . . . to Linus Torvalds for open distribution to the general public under a software license that destroys the proprietary nature of the Software Products." This allegation misunderstands the software agreements in two important respects.

45. First, under Section 1.04 of the software agreements, the term "Software Product" was defined to include "Computer Programs", which in turn was defined in Section 1.02 to include "instructions in source-code or object-code format". "Software Product" was not defined to include "derivative works or methods based thereon". As discussed above, only the original UNIX System V source code provided by AT&T or USL and included in a derivative work was to be treated as part of a "Software Product" under the software agreements, and, notwithstanding the fact that many of the standard agreements made reference to methods and concepts, we were not aware of any UNIX System V methods or concepts that required protection under the software agreements.

46. Second, Section 7.10 was not intended to impose a confidentiality restriction beyond that contained in Section 7.06(a). In fact, Section 7.10 is not about confidentiality at all. Section 7.10 provides as follows:

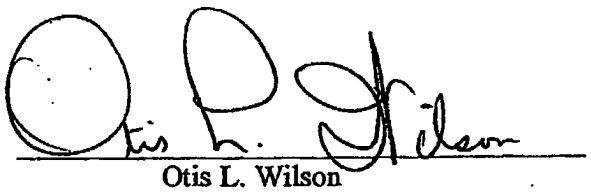
> Except as provided in Section 7.06(b), nothing in this Agreement grants to LICENSEE the right to sell, lease or otherwise transfer or dispose of a SOFTWARE PRODUCT in whole or in part.

Section 7.10 says that the software agreement does not grant the right to sell, lease or otherwise transfer or dispose of UNIX System V source code. However, Section 7.10 does not prohibit such sale, lease, transfer or disposal by the licensee. In fact, since Section 7.10 does not prohibit the licensee from doing anything, or require the licensee to do anything, I do not think it is possible for a licensee to breach Section 7.10.

47. I declare under penalty of perjury that the foregoing is true and correct.

Executed: December 11, 2003.

Greensboro, North Carolina



Otis L. Wilson

EXHIBIT 1

SS-Soft. Corp.-030184 . Agreement Number SOFT-00015

AT&T TECHNOLOGIES, INC.
SOFTWARE AGREEMENT

1. AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), having an office at 222 Broadway, New York, New York 10038, and INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation, having an office at Old Orchard Road, Armonk, New York 10504,

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, the terms and conditions set forth on pages 1 through 6 of this Agreement shall apply to use by LICENSEE of SOFTWARE PRODUCTS that become subject to this Agreement.

2. AT&T makes certain SOFTWARE PRODUCTS available under this Agreement. Each such SOFTWARE PRODUCT shall become subject to this Agreement on acceptance by AT&T of a Supplement executed by LICENSEE that identifies such SOFTWARE PRODUCT and lists the DESIGNATED CPUs therefor. The first Supplement for a specific SOFTWARE PRODUCT shall have attached a Schedule for such SOFTWARE PRODUCT. Any additional terms and conditions set forth in such Schedule shall also apply with respect to such SOFTWARE PRODUCT. Initially, Supplement(s) numbered 1, 2 and 3---- ---------- are included in and made part of this Agreement.

3. Additional Supplements may be added to this Agreement to add additional SOFTWARE PRODUCTS (and DESIGNATED CPUs therefor) or to add or replace DESIGNATED CPUs for other SOFTWARE PRODUCTS covered by previous Supplements. Each such additional Supplement shall be considered part of this Agreement when executed by LICENSEE and accepted by AT&T.

4. This Agreement and its Supplements set forth the entire agreement and understanding between the parties as to the subject matter hereof and merge 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.

	Accepted by:
INTERNATIONAL BUSINESS MACHINES CORPORATION	AT&T TECHNOLOGIES, INC.
By R A McDonough Jr 2/1/85	By D. L. Wilson 2-1-85
(Signature) (Date)	(Signature) (Date)
R. A. McDonough Jr	D. L. WILSON
(Type or print name)	(Type or print name)
COUNSEL - SYSTEMS PRODUCT DIV.	Manager, Software Sales and Marketing
(Title)	(Title)

I. DEFINITIONS

1.01 CPU means central processing unit.

1.02 COMPUTER PROGRAM means any instruction or instructions, in source-code or object-code format, for controlling the operation of a CPU.

1.03 DESIGNATED CPU means any CPU listed as such for a specific SOFTWARE PRODUCT in a Supplement to this Agreement.

1.04 SOFTWARE PRODUCT means materials such as COMPUTER PROGRAMS, information used or interpreted by COMPUTER PROGRAMS and documentation relating to the use of COMPUTER PROGRAMS. Materials available from AT&T for a specific SOFTWARE PRODUCT are listed in the Schedule for such SOFTWARE PRODUCT.

1.05 SUBSIDIARY of a company means a corporation or other legal entity (i) the majority of whose shares or other securities entitled to vote for election of directors (or other managing authority) is now or hereafter controlled by such company either directly or indirectly; or (ii) the majority of the equity interest in which is now or hereafter owned and controlled by such company either directly or indirectly; but any such corporation or other legal entity shall be deemed to be a SUBSIDIARY of such company only so long as such control or such ownership and control exists.

II. GRANT OF RIGHTS

2.01 AT&T grants to LICENSEE a personal, nontransferable and nonexclusive right to use in the United States each SOFTWARE PRODUCT identified in the one or more Supplements hereto, solely for LICENSEE'S own internal business purposes and solely on or in conjunction with DESIGNATED CPUs for such SOFTWARE PRODUCT. Such right to use includes the right to modify such SOFTWARE PRODUCT and to prepare derivative works based on such SOFTWARE PRODUCT, provided the resulting materials are treated hereunder as part of the original SOFTWARE PRODUCT.

2.02 A single back-up CPU may be used as a substitute for a DESIGNATED CPU without notice to AT&T during any time when such DESIGNATED CPU is inoperative because it is malfunctioning or undergoing repair, maintenance or other modification.

2.03 LICENSEE may at any time notify AT&T in writing of any changes, such as replacements or additions, that LICENSEE wishes to make to the DESIGNATED CPUs for a specific SOFTWARE PRODUCT. AT&T will prepare additional Supplements as required to cover such changes. Changes covered by a Supplement shall become effective after execution of such Supplement by LICENSEE, acceptance thereof by AT&T and, in the case of each additional CPU, receipt by AT&T of the appropriate fee.

2.04 On AT&T'S request, but not more frequently than annually, LICENSEE shall furnish to AT&T a statement, certified by an authorized representative of LICENSEE, listing the location, type and serial number of all DESIGNATED CPUs hereunder and stating that the use by LICENSEE of SOFTWARE PRODUCTS subject to this Agreement has been reviewed and that each such SOFTWARE PRODUCT is being used solely on DESIGNATED CPUs (or temporarily on back-up CPUs) for such SOFTWARE PRODUCTS pursuant to the provisions of this Agreement.

2.05 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.

III. DELIVERY

3.01 Within a reasonable time after AT&T receives the fee specified in the first Supplement for a SOFTWARE PRODUCT, AT&T will furnish to LICENSEE one (1) copy of such SOFTWARE PRODUCT in the form identified in the Schedule for such SOFTWARE PRODUCT.

3.02 Additional copies of SOFTWARE PRODUCTS covered by this Agreement will be furnished to LICENSEE after receipt by AT&T of the then-current distribution fee for each such copy.

IV. EXPORT

4.01 LICENSEE agrees that it will not, without the prior written consent of AT&T, export, directly or indirectly, SOFTWARE PRODUCTS covered by this Agreement to any country outside of the United States.

V. FEES AND TAXES

5.01 Within sixty (60) days after acceptance of this Agreement by AT&T, LICENSEE shall pay to AT&T the fees required by the Supplement(s) initially attached hereto for the DESIGNATED CPUs listed in such Supplement(s).

5.02 Within sixty (60) days after acceptance of each additional Supplement by AT&T, LICENSEE shall pay to AT&T any fee required by such additional Supplement for the DESIGNATED CPUs listed in such additional Supplement.

5.03 Payments to AT&T shall be made in United States dollars to AT&T at the address specified in Section 7.11(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 by any governmental entity within the United States proper (the fifty (50) states and the District of Columbia). Fees specified in Supplement(s) to this Agreement and in Schedule(s) attached to Supplement(s) are exclusive of any taxes. If AT&T is required to collect a tax to be paid by LICENSEE, LICENSEE shall pay such tax to AT&T on demand.

VI. TERM

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

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

6.03 If LICENSEE fails to fulfill one or more of its obligations under this Agreement, AT&T 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 subject to this Agreement.

6.04 In the event of termination of rights under Sections 6.02 or 6.03, AT&T 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 subject to this Agreement shall immediately cease, and (ii) such former SUBSIDIARY shall immediately discontinue use of and return to LICENSEE or destroy all copies of SOFTWARE PRODUCTS subject to this Agreement. No fees paid to AT&T for use of SOFTWARE PRODUCTS on DESIGNATED CPUs of such former SUBSIDIARIES shall be refunded; however, LICENSEE may substitute other CPUs for such DESIGNATED CPUs in accordance with Section 2.03.

VII. MISCELLANEOUS PROVISIONS

7.01 Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent or trademark. However, in respect of patents under which AT&T can grant rights, AT&T grants to LICENSEE all such rights necessary for the use by LICENSEE, pursuant to the rights granted herein, of SOFTWARE PRODUCTS, except to the extent that such patents apply (i) independently of the use of any such SOFTWARE PRODUCT, (ii) because a DESIGNATED CPU is used in combination with other hardware or (iii) because any such SOFTWARE PRODUCT is modified from the version furnished hereunder to LICENSEE by AT&T or is used in combination with other software.

7.02 This Agreement shall prevail notwithstanding any conflicting terms or legends which may appear in a SOFTWARE PRODUCT.

7.03 AT&T warrants that it is empowered to grant the rights granted hereunder. AT&T makes no other representations or warranties, expressly or impliedly. By way of example but not of limitation, AT&T makes 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 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.

7.04 LICENSEE agrees that it will not, without the prior written permission of AT&T, (i) use in advertising, publicity, packaging, labeling or otherwise any trade name, trademark, trade device, service mark, symbol or any other identification or any abbreviation, contraction or simulation thereof owned by AT&T (or a corporate affiliate thereof) or used by AT&T (or such an affiliate) 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 (or such an affiliate), or is made in accordance with or utilizes any information or documentation of AT&T (or such an affiliate).

7.05 Neither the execution of this Agreement nor anything in it or in any SOFTWARE PRODUCT shall be construed as an obligation upon AT&T to furnish any person, including LICENSEE, any assistance of any kind whatsoever, or any information or documentation other than the SOFTWARE PRODUCTS to be furnished pursuant to Sections 3.01 and 3.02.

7.06 (a) LICENSEE agrees that it shall hold all parts of the SOFTWARE PRODUCTS subject to this Agreement in confidence for AT&T. LICENSEE further agrees that it shall not make any disclosure of any or all of such SOFTWARE PRODUCTS (including methods or concepts utilized therein) to anyone, except to employees 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 subject to this Agreement at any time becomes available without restriction to the general public by acts not attributable to LICENSEE or its employees, LICENSEE'S obligations under this section shall not apply to such information after such time.

(b) Notwithstanding the provisions of Section 7.06(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 (or a corporate affiliate thereof) for the same SOFTWARE PRODUCT, provided that LICENSEE first verifies the status of any such third party in accordance with specific instructions issued by AT&T. Such instructions may be obtained on request from AT&T at the correspondence address specified in Section 7.11(b). 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 as if they were part of such SOFTWARE PRODUCT.

7.07 The obligations of LICENSEE and its employees under Section 7.06(a) shall survive and continue after any termination of rights under this Agreement or cessation of a SUBSIDIARY'S status as a SUBSIDIARY.

7.08 LICENSEE agrees that it will not use SOFTWARE PRODUCTS subject to this Agreement except as authorized herein and that it will not make, have made or permit to be made any copies of such SOFTWARE PRODUCTS except for use on DESIGNATED CPUs for such SOFTWARE PRODUCTS (including backup and archival copies necessary in connection with such use) and for distribution in accordance with Section 7.06(b). Each such copy shall contain the same copyright and/or proprietary notices or notice giving credit to a developer, which appear on or in the SOFTWARE PRODUCT being copied.

7.09 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.

7.10 Except as provided in Section 7.06(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.

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

AT&T TECHNOLOGIES, INC.
P.O. Box 65080
Charlotte, North Carolina 28265

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

AT&T TECHNOLOGIES, INC.
Software Sales and Marketing Organization
P.O. Box 25000
Greensboro, North Carolina 27420

(c) Any payment, statement, 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 at the appropriate address specified in this Section 7.11. Each party to this Agreement may change an address relating to it by written notice to the other party.

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

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

EXHIBIT 2

SS-Sub.-030184 Agreement Numbe. UB-00015A

AT&T TECHNOLOGIES, INC.
SUBLICENSING AGREEMENT

1. AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), having an office at 222 Broadway, New York, New York 10038, and INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation,

having an office at Old Orchard Road, Armonk, New York 10504,

for itself and its SUBSIDIARIES (collectively referred to herein as "LICENSEE") agree that, after execution of this Sublicensing Agreement by LICENSEE and acceptance of this Sublicensing Agreement by AT&T, the terms and conditions set forth on pages 1 through 9 of this Sublicensing Agreement shall apply to the SOFTWARE PRODUCTS subject to Software Agreement Number SOFT-00015 between AT&T and LICENSEE ("the Software Agreement").

2. The discount percentage applicable to per-copy fees payable hereunder shall be % during the initial period. The advance commitment for the initial period shall be $ (See Section 4.02).

3. Except as otherwise specifically provided herein, all the provisions of the Software Agreement remain in full force and effect.

4. This Sublicensing Agreement, together with the Software Agreement and its Supplement(s), 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 effective date 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.

INTERNATIONAL BUSINESS MACHINES CORPORATION

By _____ 2/1/85
(Signature) (Date)

R.A. McDonough III
(Type or print name)

COUNSEL - SYSTEMS PRODUCT DIV.
(Title)

Accepted by:

AT&T TECHNOLOGIES, INC.

By _____ 2-1-85
(Signature) (Date)

O. L. WILSON
(Type or print name)

Manager, Software Sales and Marketing
(Title)

I. DEFINITIONS

1.01 The terms "CPU", "COMPUTER PROGRAM", "SOFTWARE PRODUCT" and "SUBSIDIARIES" are defined in the Software Agreement.

1.02 AUTHORIZED COPIER means a DISTRIBUTOR authorized by LICENSEE to make copies of SUBLICENSED PRODUCTS.

1.03 DISTRIBUTOR means an entity authorized by LICENSEE or another DISTRIBUTOR to receive copies of SUBLICENSED PRODUCTS from LICENSEE or another DISTRIBUTOR and furnish such copies to customers and/or other DISTRIBUTORS.

1.04 SUBLICENSED PRODUCT means (i) COMPUTER PROGRAMS in object-code format based on a SOFTWARE PRODUCT subject to the Software Agreement and (ii) any other materials identified in the "Sublicensing" section of the Schedule for such SOFTWARE PRODUCT.

II. GRANT OF RIGHTS

2.01 Notwithstanding any provisions to the contrary in the Software Agreement, AT&T grants to LICENSEE personal, nontransferable and nonexclusive rights:

(a) 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 U.S. government export restrictions) for use on customer CPUs solely for each such customer's internal business purposes, 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 on one CPU at a time 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 on such one CPU;

(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;

(b) to use SUBLICENSED PRODUCTS on LICENSEE'S CPUs solely for LICENSEE'S own internal business purposes; and

(c) to use, and to permit DISTRIBUTORS to use, SUBLICENSED PRODUCTS without fee solely for testing CPUs that are to be delivered to customers and for demonstrating SUBLICENSED PRODUCTS to prospective customers.

2.02 In the United States and in other jurisdictions where an enforceable copyright covering the COMPUTER PROGRAMS of the SUBLICENSED PRODUCT exists, the agreement specified in Section 2.01(a) may be a written agreement signed by the customer or a written agreement on the package containing the SUBLICENSED PRODUCT that is fully visible to the customer and that the customer accepts by opening the package. In all other jurisdictions such agreement must be a written agreement signed by the customer. AT&T 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 Sections 2.01, 2.02, 2.04, 2.07, this Section 2.03 and Section 3.05 of this Sublicensing Agreement. For a DISTRIBUTOR who is also to be an AUTHORIZED COPIER, such agreement shall also include provisions consistent with and containing the relevant substance of Sections 2.05, 2.08, 2.10 and 5.01 of this Sublicensing Agreement.

2.04 DISTRIBUTORS who are not also AUTHORIZED COPIERS may not make copies of SUBLICENSED PRODUCTS, but may furnish to customers copies of SUBLICENSED PRODUCTS furnished to such DISTRIBUTOR by LICENSEE or other DISTRIBUTORS. In such cases the product name appearing on such copies shall not be deleted or altered by such a DISTRIBUTOR.

2.05 (a) A DISTRIBUTOR who is also an AUTHORIZED COPIER 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 2.10), and furnish such copies to customers and other DISTRIBUTORS.

(b) If an AUTHORIZED COPIER also has been granted a right to use a SOFTWARE PRODUCT, either as a licensee of AT&T (or of a corporate affiliate thereof) or as a contractor of LICENSEE (in accordance with requirements of AT&T), such AUTHORIZED COPIER may use such SOFTWARE PRODUCT to modify a SUBLICENSED PRODUCT derived from such SOFTWARE PRODUCT. If LICENSEE and such AUTHORIZED COPIER agree in writing that all right, title and interest in the resulting modifications belong to LICENSEE, then copies of such modified SUBLICENSED PRODUCT may be furnished to such customers and fees for such copies may be paid to AT&T pursuant to this Sublicensing Agreement. However, if all right, title and interest in the resulting modifications do not belong to LICENSEE then such AUTHORIZED COPIER must be a licensee of AT&T (or of a corporate affiliate thereof) for such SOFTWARE PRODUCT and copies of such modified SUBLICENSED PRODUCT must be furnished to customers and fees must be paid to AT&T only pursuant to a Sublicensing Agreement between AT&T and such AUTHORIZED COPIER, even if the version of such SOFTWARE PRODUCT used by such AUTHORIZED COPIER is furnished to such AUTHORIZED COPIER by LICENSEE. Regardless of which Sublicensing Agreement is involved in furnishing a copy of a SUBLICENSED PRODUCT to a customer, only one fee shall be collected by AT&T for such copy.

2.06 LICENSEE shall use its best efforts to enforce the agreements with DISTRIBUTORS and customers specified in this Sublicensing Agreement.

2.07 If a DISTRIBUTOR fails to fulfill one or more of its obligations under the agreement required by Section 2.03, AT&T 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.

2.08 (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 AUTHORIZED COPIERS.

(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.

2.09 In certain cases AT&T may make copies of software materials available on appropriate media for purchase by LICENSEE for distribution by LICENSEE as SUBLICENSED PRODUCTS. However, purchase of such copies shall not relieve LICENSEE of its obligation to pay fees under this Sublicensing Agreement for such SUBLICENSED PRODUCTS.

2.10 No right is granted hereunder or under the Software Agreement to use any trademark of AT&T (or a corporate affiliate thereof) in the name of the SUBLICENSED PRODUCTS offered or furnished to customers by LICENSEE or DISTRIBUTORS. However, LICENSEE and DISTRIBUTORS may state in advertising, publicity, packaging, labeling or otherwise that a SUBLICENSED PRODUCT is derived from AT&T'S software under license from AT&T and identify such software (including any trademark, provided the proprietor of the trademark is appropriately identified). LICENSEE agrees, for itself and its DISTRIBUTORS, not to use a name or trademark for a SUBLICENSED PRODUCT that is confusingly similar to a name or trademark used by AT&T (or a corporate affiliate thereof).

III. TERM

3.01 This Sublicensing Agreement shall become effective for an initial period that expires one year from the end of the quarter (ending March 31st, June 30th, September 30th or December 31st) during which this Sublicensing Agreement is accepted.

3.02 Unless LICENSEE notifies AT&T in writing or AT&T notifies LICENSEE in writing at least thirty (30) days before the expiration date established in Section 3.01 that such party does not wish renewal, this Sublicensing Agreement shall be renewed automatically for an additional one-year period and shall continue to be renewed in such a manner from year to year. Alternatively, new one-year periods may be initiated as specified in Section 4.02(d).

3.03 If LICENSEE fails to fulfill one or more of its obligations under this Sublicensing Agreement or the Software Agreement, AT&T 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 and under the Software Agreement 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 covered by the Software Agreement and immediately discontinue distribution and use of and destroy all copies of SUBLICENSED PRODUCTS in its possession.

3.04 Neither the expiration of this Sublicensing Agreement nor the termination of LICENSEE'S rights hereunder shall relieve LICENSEE of its obligation to pay any fee hereunder. In the event of termination of LICENSEE'S rights hereunder, all fees that LICENSEE has become obligated to pay hereunder shall become immediately due and payable.

3.05 LICENSEE agrees that when a SUBSIDIARY'S or a DISTRIBUTOR'S relationship to LICENSEE changes so that it is no longer a SUBSIDIARY or a DISTRIBUTOR of LICENSEE, all rights of such former SUBSIDIARY or DISTRIBUTOR under this Sublicensing Agreement shall immediately cease, and such former SUBSIDIARY or DISTRIBUTOR shall return to LICENSEE or destroy all copies of SUBLICENSED PRODUCTS for which per-copy fees have not been paid to AT&T. However, such former SUBSIDIARY or DISTRIBUTOR may continue to use copies of SUBLICENSED PRODUCTS for which per-copy fees have been paid on the same basis that a customer may use copies of SUBLICENSED PRODUCTS pursuant to Section 2.01(a).

IV. FEES AND DISCOUNTS

4.01 (a) For rights granted under this Sublicensing Agreement, LICENSEE shall pay to AT&T, in the manner and at the times specified in Article V, any initial sublicensing fee specified for the SOFTWARE PRODUCT on which a SUBLICENSED PRODUCT is based and a per-copy fee for each copy of a SUBLICENSED PRODUCT either (i) furnished by LICENSEE to a customer or to a DISTRIBUTOR, (ii) made by an AUTHORIZED COPIER and furnished by such AUTHORIZED COPIER to a customer or to another DISTRIBUTOR or (iii) put into use by LICENSEE on a CPU of LICENSEE. The amounts of such sublicensing fees are listed in the Schedule for each SOFTWARE PRODUCT.

(b) Amounts paid to AT&T under this Sublicensing Agreement for a copy of a SUBLICENSED PRODUCT furnished to a particular customer shall not be creditable toward any fees payable under any agreement between AT&T (or between a corporate affiliate thereof) and such customer.

(c) Fees paid to AT&T under this Sublicensing Agreement shall not be creditable toward fees that become payable under the Software Agreement. Fees paid under the Software Agreement shall not be creditable toward fees that become payable under this Sublicensing Agreement.

(d) No additional fee is payable for the transfer of a SUBLICENSED PRODUCT from one customer to another customer in conjunction with the transfer of a CPU between such customers, provided that the first customer does not retain any portion of the SUBLICENSED PRODUCT after such transfer and that agreement of the second customer is obtained in accordance with Sections 2.01 and 2.02. Such transfer of a SUBLICENSED PRODUCT may result from, for example, a sale of a CPU by the first customer to the second customer or the termination of a lease with the first customer for a CPU and the execution of a new lease with the second customer for such CPU.

(e) No additional fee is payable for the transfer of a SUBLICENSED PRODUCT from one CPU of LICENSEE to another or the transfer of a SUBLICENSED PRODUCT from one CPU of a customer to another CPU of the same customer.

4.02 (a) The discount percentage applicable during the initial period referred to in Section 3.01 shall be based on LICENSEE'S advance commitment to pay a specified minimum total amount of discounted per-copy fees for SUBLICENSED PRODUCTS furnished or put into use during such initial period. If no such commitment is made, no discount shall be available during the initial period. The discount percentage and the advance commitment, if any, for the initial period are set forth on page 1 of this Sublicensing Agreement. The discount percentage applicable during each additional one-year period referred to in Section 3.02 shall be based either on LICENSEE'S advance commitment to pay a specified minimum total amount of discounted per-copy fees for such additional one-year period or on the actual total of such fees payable for the preceding period, as LICENSEE shall elect.

(b) Such discount percentage shall be two percent (2%) for each whole one hundred thousand dollars ($100,000.00) of either the advance commitment or the actual total for the preceding period, as the case may be, up to a maximum of sixty percent (60%).

(c) If LICENSEE elects to base its discount percentage for a forthcoming additional period on its advance commitment, LICENSEE shall notify AT&T in writing of the amount of such advance commitment before the end of the preceding period. If such notification is not received by such time, such discount percentage shall be based on the actual total of discounted per-copy fees payable for the preceding period.

(d) An advance commitment may not be reduced. However, LICENSEE may at any time request of AT&T in writing that the then-current initial period or additional one-year period be terminated and that a new one-year period be started, beginning with the next quarter, for which new period LICENSEE shall make an advance commitment corresponding to a higher discount percentage than that currently applicable. Such request will be subject to AT&T'S acceptance. In the case of such termination and start of a new period, the discount percentage for the terminated period shall apply to all transactions occurring before the end of such period.

4.03 The section of the Software Agreement relating to taxes shall apply to fees payable under this Sublicensing Agreement.

V. REPORTS AND PAYMENTS

5.01 (a) LICENSEE shall keep full, clear and accurate records of the number of copies of each SUBLICENSED PRODUCT furnished by it and AUTHORIZED COPIERS to other DISTRIBUTORS and customers and put into use on LICENSEE'S CPUs.

(b) Each AUTHORIZED COPIER shall keep full, clear and accurate records of the number of copies of each SUBLICENSED PRODUCT furnished by it to other DISTRIBUTORS and customers.

(c) Each AUTHORIZED COPIER shall furnish a statement at least quarterly to LICENSEE identifying the number of copies recorded according to Section 5.01(b) since the previous such statement was furnished.

(d) LICENSEE shall keep full, clear and accurate records of the identities and locations of AUTHORIZED COPIERS.

(e) AT&T shall have the right through its accredited auditing representatives to make an examination and audit, during normal business hours, not more frequently than annually, of all records kept pursuant to this Section by LICENSEE and AUTHORIZED COPIERS and such other records and accounts as may under recognized accounting practices contain information bearing upon the amounts of fees payable to it under this Sublicensing Agreement. Prompt adjustment shall be made by the proper party to compensate for any errors or omissions disclosed by such examination or audit. Neither such right to examine and audit nor the right to receive such adjustment shall be affected by any statement to the contrary, appearing on checks or otherwise, unless such statement appears in a letter, signed by the party having such right and delivered to the other party, expressly waiving such right.

5.02 (a) LICENSEE shall notify AT&T in writing at least thirty (30) days in advance of the date LICENSEE intends to begin furnishing copies of a SUBLICENSED PRODUCT to customers or DISTRIBUTORS or putting any such copies into use on LICENSEE'S CPUs. Before such date LICENSEE shall pay to AT&T any initial sublicensing fee specified for the SOFTWARE PRODUCT on which such SUBLICENSED PRODUCT is based. Discount percentages established under Section 4.02 do not apply to initial sublicensing fees.

(b) Within thirty (30) days after the end of each quarter ending on March 31st, June 30th, September 30th or December 31st, commencing with the quarter during which this Sublicensing Agreement first becomes effective, LICENSEE shall furnish to AT&T a statement, in form acceptable to AT&T, certified by an authorized representative of LICENSEE, identifying the number of copies of each SUBLICENSED PRODUCT furnished by it and AUTHORIZED COPIERS or put into use on LICENSEE'S CPUs, the SOFTWARE PRODUCT on which each such SUBLICENSED PRODUCT is based, the per-copy fees for such copies and the net fees payable after the applicable discount percentage is taken into account. If the per-copy fees for a particular SUBLICENSED PRODUCT are based on a characteristic such as number of users supported, information on such characteristic for the copies of such SUBLICENSED PRODUCT furnished or put into use shall also be included in such statement. Each SUBLICENSED PRODUCT for which LICENSEE has given notice to AT&T pursuant to Section 5.02(a) shall be covered by such statement. In each such statement, LICENSEE shall also fully identify any AUTHORIZED COPIER added or terminated during the quarter covered by such statement.

(c) Within such thirty (30) days LICENSEE shall, irrespective of its own business and accounting methods, pay to AT&T the net fees payable for such quarter as shown in the statement required by Section 5.02(b), except that if the applicable discount percentage is based on an advance commitment for a period, LICENSEE shall pay the net fees payable for such quarter plus any additional amount necessary for the total of amounts paid for such period after the first, second, third and fourth full quarters thereof to be, respectively, one-quarter, one-half, three-quarters and the full amount of such advance commitment. Any such additional amount paid during a period shall be creditable against net fees payable later in the same period, but no such additional amount remaining at the end of the fourth full quarter of a period shall be refunded or creditable against any other amounts payable to AT&T. If AT&T accepts a new one-year period pursuant to Section 4.02(d), no such additional amount remaining at the end of the last full quarter of the terminated period shall be refunded or creditable against any other amounts payable to AT&T.

(d) LICENSEE shall furnish whatever additional information AT&T may reasonably prescribe from time to time to enable AT&T to ascertain the amounts of fees payable pursuant hereto.

5.03 Payments provided for in this Sublicensing Agreement shall, when overdue, be subject to a late payment charge calculated at an annual rate of one percent (1%) 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. MISCELLANEOUS PROVISIONS

6.01 Neither this Sublicensing 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.

6.02 (a) Payments to AT&T under this Sublicensing Agreement shall be made payable and sent to:

AT&T TECHNOLOGIES, INC.
P.O. Box 65080
Charlotte, North Carolina 28265

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

AT&T TECHNOLOGIES, INC.
Software Sales and Marketing Organization
P.O. Box 25000
Greensboro, North Carolina 27420

(c) Any payment, statement, 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 Sublicensing Agreement or to AT&T at the appropriate address specified in this Section 6.02. Each party to this Sublicensing Agreement may change an address relating to it by written notice to the other party.

6.03 The limited grant of rights under patents in the Software Agreement applies to any use permitted under Section 2.01 of this Sublicensing Agreement.

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

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

EXHIBIT 3

SS-SNA-041084 Agreement Number XFER-000159

IBM CONFIDENTIAL

AT&T TECHNOLOGIES, INC.
Substitution Agreement

The following agreements ("the prior agreements") are in effect between AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), or an affiliate thereof, and INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation ("LICENSEE"):

1. January 1, 1982 Software Agreement, as Modified, Relating to UNIX* System V, Release 2.0 and other UNIX Operating Systems.

2. June 2, 1983 Supplemental Agreement (Customer Provisions) relating to UNIX System V, Release 2.0 and other UNIX Operating Systems.

Agreement Numbers SOFT-00015 and SUB-00015A------- between AT&T and LICENSEE ("the new agreements") are hereby substituted for the prior agreements. Accordingly, the rights and obligations of the parties under the prior agreements are terminated and replaced by the rights and obligations of the parties under the new agreements. No other agreements between the parties hereto are affected by this Agreement.

The following provision is ☐ applicable
☒ not applicable:

The discount percentage for the initial period pursuant to Agreement No. is %, based on total per-copy fees of $ paid by LICENSEE under the prior Supplemental Agreement (Customer Provisions) listed above relating to UNIX* System III and/or UNIX System V.

INTERNATIONAL BUSINESS MACHINES CORPORATION

By _____ (Date)
(Signature)

_____
(Type or print name)

_____
(Title)

Accepted by:

AT&T TECHNOLOGIES, INC.

By _____ 3-4-85
(Signature) (Date)

O. L. WILSON
(Type or print name)

Manager, Software Sales and Marketing
(Title)

*UNIX is a trademark of AT&T Bell Laboratories.

EXHIBIT 4

AT&T
Technology System

O. L. Wilson
Manager, Software
Sales and Marketing

Guilford Center
P. O. Box 25000
Greensboro, N.C. 27420
919 279-7078

FEB 11 1985

INTERNATIONAL BUSINESS MACHINES CORPORATION
Old Orchard Road
Armonk, New York 10504

Gentlemen:

Re: Software Agreement Number SOFT-00015, Sublicensing Agreement Number SUB-00015A and Substitution Agreement Number XFER-00015B

This letter states understandings between our companies relating to the referenced agreements and amends certain sections in such agreements concerning SOFTWARE PRODUCTS subject to the referenced Software Agreement.

A. Software Agreement

1. Regarding Sections 2.01 and 4.01, we will consider extending rights granted under Section 2.01 to include use of SOFTWARE PRODUCTS in countries other than the United States and giving written consent under Section 4.01 to export SOFTWARE PRODUCTS to such countries when specific needs arise. In the case of additional DESIGNATED CPUs in such countries such extension and consents will be given by the Supplements for such CPUs prepared in accordance with Section 2.03. In the case of your export of modified SOFTWARE PRODUCTS to our source licensees in such countries such consents will be given by an appropriate writing consistent with Section 7.06(b). We are presently willing to grant such rights for the countries you have requested, namely, Australia, Austria, Belgium, Canada, Republic of China (Taiwan), Denmark, Finland, France, Federal Republic of Germany (West Germany), Greece, Hong Kong, Ireland, Israel, Italy, Japan, Republic of Korea (South Korea), Luxembourg, The Netherlands, New Zealand, Norway, Sweden, Switzerland, United Kingdom (England, Wales, Scotland, Northern Ireland), and Singapore. We will not unreasonably withhold such permission for such listed countries or for other countries that you may identify. Our concerns in this regard are the laws of the recipient country relating to protection of software and U. S. export control laws.

2. Regarding Section 2.01, we agree that modifications and derivative works prepared by or for you are owned by you. However, ownership of any portion or portions of SOFTWARE PRODUCTS included in any such modification or derivative work remains with us.

3. You have requested that your contractors be permitted to use SOFTWARE PRODUCTS pursuant to the referenced Software Agreement.

Accordingly, notwithstanding any provision to the contrary in the Software Agreement, including Section 7.06(a) as amended hereby, it is agreed that, subject to the conditions set forth herein, the rights granted in Section 2.01 of the Software Agreement be extended to permit you to provide access to and allow use of SOFTWARE PRODUCTS by your contractors.

Such use may be on your DESIGNATED CPUs or on such contractors' CPUs that you designate as additional DESIGNATED CPUs pursuant to Section 2.03 of the Software Agreement. Such use by contractors will be deemed to be for your own internal business purposes. If such use is on a contractor's CPU, you may furnish a copy of a SOFTWARE PRODUCT to such contractor. You shall secure from each such contractor, at the time of or before providing access to or furnishing any copy of a SOFTWARE PRODUCT, the agreement of such contractor in writing that any claim, demand or right of action arising on behalf of such contractor from access to or use of the SOFTWARE PRODUCT shall be solely against you and that such contractor agrees to the same obligations and responsibilities as to confidentiality and other restrictions pertaining to the use of the SOFTWARE PRODUCT as those undertaken by you under the Software Agreement. Each such agreement shall also provide that, when a contractor's work for you is completed, all copies of the SOFTWARE PRODUCT and any software derived from or developed with the use of a SOFTWARE PRODUCT shall be returned to you by such contractor and such contractor shall erase any such software from any storage element of apparatus. Copies of such agreements with contractors shall be provided to us at our request. However, portions of such agreements not specifically required by this paragraph may be deleted. Information furnished by LICENSEE relating to contractors shall be subject to Paragraph A15 in this Letter Agreement.

4. Regarding Section 5.04, we agree that you shall not be obligated to pay any tax based on our net income in the United States or elsewhere.

5. Regarding Section 6.03 of the Software Agreement and Sections 2.07 and 3.03 of the Sublicensing Agreement, we will not terminate your rights for breach, nor will we give notice of termination under such Sections, for breaches we consider to be immaterial. We agree to lengthen the notice period referenced in such Sections from two (2) months to one hundred (100) days. If a breach occurs that causes us to give notice of termination, you may remedy the breach to avoid termination if you are willing and able to do so. In the event that a notice of termination is given to you under either of such Sections and you are making reasonable efforts to remedy the breach but you are unable to complete the remedy in the specified notice period, we will not unreasonably withhold our approval of a request by you for reasonable extension of such period. We will also consider a reasonable extension under Section 2.07 of the Sublicensing Agreement in the case of a DISTRIBUTOR who is making reasonable efforts to remedy a breach.

   We will consider arbitration if a dispute arises on payments.

   In any event our respective representatives will exert their mutual good faith best efforts to resolve any alleged breach short of termination.

6. Regarding Section 6.05 of the Software Agreement and Section 3.05 of the Sublicensing Agreement, we will offer new software and sublicensing agreements to your former SUBSIDIARIES on the same basis as to any other prospective licensee. A former SUBSIDIARY would be unlicensed during the period between its ceasing to be your SUBSIDIARY and the effective date of such new agreements. Therefore, new agreements should be in effect before a SUBSIDIARY is divested.

7. Regarding Section 7.03, we are not aware of any patent or copyright infringement action against us relating to SOFTWARE PRODUCTS.

8. Regarding Section 7.05, we will cooperate with you in defending litigation arising from your use of SOFTWARE PRODUCTS (or sublicensing of SUBLICENSED PRODUCTS under the Sublicensing Agreement), but the extent of such cooperation cannot be determined until such litigation arises.

9. Amend Section 7.06(a) by replacing such section with the following:

--7.06(a) LICENSEE agrees that it shall hold SOFTWARE PRODUCTS subject to this Agreement in confidence for AT&T. LICENSEE further agrees that it shall not make any disclosure of such SOFTWARE PRODUCTS to anyone, except to employees 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. Nothing in this agreement shall prevent LICENSEE from developing or marketing products or services employing ideas, concepts, know-how or techniques relating to data processing embodied in SOFTWARE PRODUCTS subject to this Agreement, provided that LICENSEE shall not copy any code from such SOFTWARE PRODUCTS into any such product or in connection with any such service and employees of LICENSEE shall not refer to the physical documents and materials comprising SOFTWARE PRODUCTS subject to this Agreement when they are developing any such products or service or providing any such service. If information relating to a SOFTWARE PRODUCT subject to this Agreement at any time becomes available without restriction to the general public by acts not attributable to LICENSEE or its employees, LICENSEE'S obligations under this section shall not apply to such information after such time.--.

10. Regarding Section 7.06(b), this section covers the situation where one of our licensees wishes to furnish its modified version of our source code for a SOFTWARE PRODUCT to another of our licensees for the same product. The last sentence of this section makes clear that you may receive source code from another such licensee, provided you treat such source code as if it were the source code we furnished to you. This language is not intended to refer to an object-code product that you obtain from another of our licensees pursuant to that licensee's sublicensing rights.

11. Regarding Section 7.06, we recognize that you may at some time be required to disclose a SOFTWARE PRODUCT to others (i) by law, (ii) by a valid order of a court or other governmental body, (iii) by your existing undertaking with the European Economic Community or (iv) in order to establish

your rights under the Software Agreement. You recognize the proprietary nature of SOFTWARE PRODUCTS and the need to protect SOFTWARE PRODUCTS from unrestricted disclosure. Accordingly, you agree not to make any such disclosure without giving notice to us so that we have an opportunity to intervene. We agree to respond to any such notice within a reasonable time, consistent with the requirement that you disclose. You agree to obtain, or assist us in obtaining, a protective order appropriately limiting the extent of any such disclosure that may eventually be made.

12. We agree that all SOFTWARE PRODUCTS, including enhancements to or new versions of existing SOFTWARE PRODUCTS, generally available under the Software Agreement will be made available to you at the fees and under terms, warranties and benefits equivalent to those offered to other licensees.

13. Regarding Section 1(e) of the "Schedule for UNIX* System V, Release 2.0, Version 1.0" attached to Supplement 1 of the Software Agreement, Section 1(c) of the "Schedule for UNIX Documenter's Workbench** Software" attached to Supplement 2 of the Software Agreement, and the "Schedule for 370 DEVELOPMENT SYSTEM V" attached to Supplement 3 of the Software Agreement, we agree that the fees in such Schedules are not subject to increase.

14. Regarding the documentation listed in Section 2 of the Schedule for UNIX System V, Release 2.0, Version 1.0, the documents entitled "UNIX System V System Release Description" and "UNIX System V-International Release Description" are not presently available without restriction to the general public. All other listed documents are available without restriction.

15. We agree that the identities of your contractors, DISTRIBUTORS and AUTHORIZED COPIERS, as well as the types and serial numbers of DESIGNATED CPUs of such parties, are confidential and need only be disclosed to us as specified under the referenced agreements, as modified hereby, and that such information will be used by us only for the purposes of administering and enforcing such agreements and will not be disclosed to anyone except those having a need to know for the purpose of administering the referenced agreements.

*UNIX is a trademark of AT&T Bell Laboratories.
**Documenter's Workbench is a trademark of AT&T Technologies.

B. Sublicensing Agreement

1. A DISTRIBUTOR may also be your contractor pursuant to the terms set forth in item A3 above.

2. We agree that "internal business purposes" in Sections 2.01(a) and 2.01(b) includes the right to offer data processing services to others.

3. Regarding the following IBM form agreements:

Our Reference	Form No.	Title
1.	Z125-3358-0	Agreement for IBM Licensed Programs
2.	Z125-3419-0	IBM Usage License Amendment to Agreement for IBM Licensed Programs
3.	Z125-3301-0	IBM Program License Agreement
4.	Z137-0075-0	IBM Instruments, Inc. Program License Agreement
5.	04-83	Amendment to Agreement for IBM Licensed Programs (Value Added Remarketer)
6.	04-83	Agreement for IBM Licensed Programs (Value Added Remarketer's Licensed End User)
7.	6172208	IBM Program License Agreement
8.	Unnumbered	IBM Personal Computer Retail Dealer Agreement, Software
9.	926-2661-0D	IBM Personal Computer Retail Dealer Agreement

We have reviewed such form agreements for use under the provisions of the Sublicensing Agreement and have no objections to such use, or the use of substantially similar forms, in the United States and Puerto Rico provided that:

(a) In using forms such as 1 and 6 (our references), you will not specify "Installation License Applies" or "Location License Applies";

(b) If your customer is permitted to make its own additional copies of "licensed program materials" for use on additional machines, as permitted under form 1, you treat such additional copies under the Sublicensing Agreement as if you had furnished such copies;

(c) In the next revision of form 3 you correct the language in the second paragraph relating to title to indicate that title may be retained by a third party (or by your licensor);

(d) In the next revision of forms 4 and 7 you include a provision prohibiting reverse assembly or reverse compilation, as appears in forms 1, 3 and 6; and

(e) In dealing with AUTHORIZED COPIERS you obligate such parties to include in copies they make of SUBLICENSED PRODUCTS the notices required by Section 2.08(a) of the Sublicensing Agreement.

4. Amend Section 2.02 by changing "written agreement on the package" to --written agreement on or accompanying the package--.

5. Amend Section 2.05(b) by replacing such Section with the following:

--(b) If an AUTHORIZED COPIER also has been granted a right to use a SOFTWARE PRODUCT, either as a licensee of AT&T (or of a corporate affiliate thereof) or as a contractor of LICENSEE (in accordance with requirements of AT&T), such AUTHORIZED COPIER may use such SOFTWARE PRODUCT to modify a SUBLICENSED PRODUCT derived from such SOFTWARE PRODUCT. If the resulting modifications are owned solely by LICENSEE, then fees for copies of such modified SUBLICENSED PRODUCT distributed to customers by such AUTHORIZED COPIER may be paid to AT&T pursuant to this Sublicensing Agreement or pursuant to a Sublicensing Agreement between AT&T and such AUTHORIZED COPIER, as LICENSEE shall elect. However, if such AUTHORIZED COPIER retains any ownership interest in such modifications, then fees for copies of such modified SUBLICENSED PRODUCT distributed to customers by such AUTHORIZED COPIER must be paid to AT&T only pursuant to a Sublicensing Agreement between AT&T and such AUTHORIZED COPIER. Regardless of which Sublicensing Agreement is involved, only one fee shall be collected by AT&T for such copy.--.

6. Regarding Section 2.06, "best efforts" need be no more than the efforts you would customarily use to enforce equivalent agreements (such as those listed in B3 above) with your customers, value added resellers, end users, and dealers.

7. Regarding Section 2.08(a), only bona fide notices need be included, not irrelevant comments that may appear in a SOFTWARE PRODUCT.

8. Regarding Section 2.09, we have not yet made any copies of software materials available under this Section. If we do so, you may elect whether to make your own copies or purchase such copies from us.

9. Regarding the references you are permitted to make to our trademark under Section 2.10, you are under no obligation to make such references.

10. Amend Section 3.02, first and second lines, by deleting "or AT&T notifies LICENSEE in writing", and, third line, by changing "such party" to --LICENSEE--.

11. The discount provisions in the Sublicensing Agreement are deleted. We will exert our good faith best efforts to propose a new discount provision by April 1, 1985. Such new discount provisions will be retroactive to the effective date of the Sublicensing Agreement and, at a minimum will:

(i) provide a discount percentage, applicable to essentially yearly discount periods, of at least two percent (2%) for each whole one hundred thousand dollars ($100,000.00) of discounted per-copy fees up to a maximum of sixty percent (60%), or equivalent;

(ii) require advance payment of per-copy fees by you no more frequently than quarterly;

(iii) require no advance commitment by you regarding volume of SUBLICENSED PRODUCTS furnished to customers or put into use; and

(iv) provide for no retention by us of advance payments made by you unless mutually agreed.

12. Regarding Section 5.01, we agree that neither you nor your AUTHORIZED COPIERS or DISTRIBUTORS will be required to provide or disclose the identity of customers to us or our accredited auditing representatives.

13. Regarding Section 5.02(a), we agree that the notification in writing required by such Section may be within thirty (30) days after the date you begin furnishing copies of a SUBLICENSED PRODUCT to customers or DISTRIBUTORS or putting such copies into use on your CPUs, and that you may pay any Sublicensing Fee for the SOFTWARE PRODUCT on which such SUBLICENSED PRODUCT is based at the time of such notification.

14. Regarding Section 5.02(c), you need not pay a per-copy fee for copies of SUBLICENSED PRODUCTS that are returned without having been used or are furnished in place of a defective copy. You are not required to pay an additional per-copy fee for an enhancement if the enhancement does not increase the number of users supported by a product into the next higher category. However, when we furnish later versions of a SOFTWARE PRODUCT with new features, we may require payment of additional sublicensing fees to upgrade your earlier SUBLICENSED PRODUCTS to include the new features.

15. Regarding the documentation you may furnish to a customer or end user, which documentation is defined as part of a SUBLICENSED PRODUCT, you may furnish the number of copies necessary to reasonably support the product without paying an additional sublicensing fee. You may also furnish to prospective customers the number of copies of such documentation necessary to reasonably support the marketing of the SUBLICENSED PRODUCT without paying a sublicensing fee for such copies.

16. Regarding your obligation under the Sublicensing Agreement to pay per-copy sublicensing fees for SUBLICENSED PRODUCTS furnished to customers (or put into use on your internal CPUs), we recognize that certain of your SUBLICENSED PRODUCTS may comprise a set of parts, with one major part being a prerequisite for the other, minor part(s), such that if you furnished (or put into use) all the parts together you would be obligated to pay only one per-copy fee. However, we understand that you wish to furnish (or put into use) the parts separately, paying the full per-copy fee when you furnish (or put into use) the major part and no fee at all when you furnish (or put into use) the minor part(s). We agree that you may do this, provided that you report, pursuant to Section 5.02 of the Sublicensing Agreement, the quantities of each major and minor part furnished (or put into use) and that such quantities by reconciled periodically to determine whether the quantity of any minor part ever exceeds the quantity of major parts, and that if there is such an excess, you pay an additional per-copy fee for each excess minor part. We will exert our good faith best efforts to propose by April 1, 1985 methods for such reconciliation and for determining such additional per-copy fees. We would expect such fees to be based on a proportional reduction of the full per-copy fee with the objective of achieving an equitable fee arrangement, taking into account the excess quantities of minor parts over major parts. The discount arrangement applicable to the full per-copy fees will also apply to the additional per-copy fees.

C. Substitution Agreement

Regarding SUBLICENSED PRODUCTS based on LICENSED SOFTWARE under the prior Software Agreement listed in the Substitution Agreement, we agree that you may elect to pay per-copy sublicensing fees for some such SUBLICENSED PRODUCTS at the rates set forth in Sections 4.01(a) and (b) of the prior Supplemental Agreement (Customer Provisions) ("the old rates") and other such SUBLICENSED PRODUCTS at the rates set forth in Section 1(c) of the Schedule for UNIX System V, Release 2.0 ("the new rates"), provided:

(a) You pay the Initial Sublicensing Fee specified in Section 1(c)(i) of such Schedule when you begin paying some per-copy fees at the new rates while continuing to pay other per-copy fees at the old rates. (Such Initial Sublicensing Fee will be waived if you elect to pay all per-copy fees at the new rates.)

(b) Per-copy fees you pay under the old rates do not apply to the determination of any discount percentage under the new Sublicensing Agreement and per-copy fees you pay under the new rates do not apply to the "Cumulative Total of Fees Paid" under the prior Supplemental Agreement (Customer Provisions).

(c) In the statements furnished pursuant to Section 5.02(b) of the new Sublicensing Agreement you clearly distinguish whether you are applying the old rates or the new rates for relevant SUBLICENSED PRODUCTS.

Capitalized terms in this letter agreement are defined in the referenced agreements.

If you agree with the above understandings and amendments, please so indicate by signing and dating the attached copy of this letter agreement in the spaces provided therefor and returning such copy to us.

Very truly yours,

AT&T TECHNOLOGIES, INC.

By David W. Treadwell
for O.C. Wilson

ACCEPTED AND AGREED TO:

INTERNATIONAL BUSINESS MACHINES CORPORATION

By R.A. McDonald

Title Counsel - System Products Division

Date February 1, 1985

EXHIBIT 5

SS-Soft. Corp.-f-20184-010385 Agreement Number SOFT-000321

AT&T TECHNOLOGIES, INC.
SOFTWARE AGREEMENT

1. AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), having an office at 1 Oak Way, Berkeley Heights, New Jersey 07922, and SEQUENT COMPUTER SYSTEMS, INC., a Delaware corporation having an office at 14360 N. W. Science Park Drive, Portland, Oregon 97229,

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, the terms and conditions set forth on pages 1 through 6 of this Agreement shall apply to use by LICENSEE of SOFTWARE PRODUCTS that become subject to this Agreement.

2. AT&T makes certain SOFTWARE PRODUCTS available under this Agreement. Each such SOFTWARE PRODUCT shall become subject to this Agreement on acceptance by AT&T of a Supplement executed by LICENSEE that identifies such SOFTWARE PRODUCT and lists the DESIGNATED CPUs therefor. The first Supplement for a specific SOFTWARE PRODUCT shall have attached a Schedule for such SOFTWARE PRODUCT. Any additional terms and conditions set forth in such Schedule shall also apply with respect to such SOFTWARE PRODUCT. Initially, Supplement(s) numbered 1 ---------- are included in and made part of this Agreement.

3. Additional Supplements may be added to this Agreement to add additional SOFTWARE PRODUCTS (and DESIGNATED CPUs therefor) or to add or replace DESIGNATED CPUs for other SOFTWARE PRODUCTS covered by previous Supplements. Each such additional Supplement shall be considered part of this Agreement when executed by LICENSEE and accepted by AT&T.

4. This Agreement and its Supplements set forth the entire agreement and understanding between the parties as to the subject matter hereof and merge 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.

Accepted by:

SEQUENT COMPUTER SYSTEMS, INC.	AT&T TECHNOLOGIES, INC.
By David P. Rodgers 4/12/85	By O. L. Wilson APR 18 1985
(Signature) (Date)	(Signature) (Date)
David P. Rodgers	O. L. WILSON
(Type or print name)	(Type or print name)
Vice President of Engineering	Manager, Software Sales and Marketing
(Title)	(Title)

I. DEFINITIONS

1.01 CPU means central processing unit.

1.02 COMPUTER PROGRAM means any instruction or instructions, in source-code or object-code format, for controlling the operation of a CPU.

1.03 DESIGNATED CPU means any CPU listed as such for a specific SOFTWARE PRODUCT in a Supplement to this Agreement.

1.04 SOFTWARE PRODUCT means materials such as COMPUTER PROGRAMS, information used or interpreted by COMPUTER PROGRAMS and documentation relating to the use of COMPUTER PROGRAMS. Materials available from AT&T for a specific SOFTWARE PRODUCT are listed in the Schedule for such SOFTWARE PRODUCT.

1.05 SUBSIDIARY of a company means a corporation or other legal entity (i) the majority of whose shares or other securities entitled to vote for election of directors (or other managing authority) is now or hereafter controlled by such company either directly or indirectly; or (ii) the majority of the equity interest in which is now or hereafter owned and controlled by such company either directly or indirectly; but any such corporation or other legal entity shall be deemed to be a SUBSIDIARY of such company only so long as such control or such ownership and control exists.

II. GRANT OF RIGHTS

2.01 AT&T grants to LICENSEE a personal, nontransferable and nonexclusive right to use in the United States each SOFTWARE PRODUCT identified in the one or more Supplements hereto, solely for LICENSEE'S own internal business purposes and solely on or in conjunction with DESIGNATED CPUs for such SOFTWARE PRODUCT. Such right to use includes the right to modify such SOFTWARE PRODUCT and to prepare derivative works based on such SOFTWARE PRODUCT, provided the resulting materials are treated hereunder as part of the original SOFTWARE PRODUCT.

2.02 A single back-up CPU may be used as a substitute for a DESIGNATED CPU without notice to AT&T during any time when such DESIGNATED CPU is inoperative because it is malfunctioning or undergoing repair, maintenance or other modification.

2.03 LICENSEE may at any time notify AT&T in writing of any changes, such as replacements or additions, that LICENSEE wishes to make to the DESIGNATED CPUs for a specific SOFTWARE PRODUCT. AT&T will prepare additional Supplements as required to cover such changes. Changes covered by a Supplement shall become effective after execution of such Supplement by LICENSEE, acceptance thereof by AT&T and, in the case of each additional CPU, receipt by AT&T of the appropriate fee.

2.04 On AT&T'S request, but not more frequently than annually, LICENSEE shall furnish to AT&T a statement, certified by an authorized representative of LICENSEE, listing the location, type and serial number of all DESIGNATED CPUs hereunder and stating that the use by LICENSEE of SOFTWARE PRODUCTS subject to this Agreement has been reviewed and that each such SOFTWARE PRODUCT is being used solely on DESIGNATED CPUs (or temporarily on back-up CPUs) for such SOFTWARE PRODUCTS pursuant to the provisions of this Agreement.

2.05 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.

III. DELIVERY

3.01 Within a reasonable time after AT&T receives the fee specified in the first Supplement for a SOFTWARE PRODUCT, AT&T will furnish to LICENSEE one (1) copy of such SOFTWARE PRODUCT in the form identified in the Schedule for such SOFTWARE PRODUCT.

3.02 Additional copies of SOFTWARE PRODUCTS covered by this Agreement will be furnished to LICENSEE after receipt by AT&T of the then-current distribution fee for each such copy.

IV. EXPORT

4.01 LICENSEE agrees that it will not, without the prior written consent of AT&T, export, directly or indirectly, SOFTWARE PRODUCTS covered by this Agreement to any country outside of the United States.

V. FEES AND TAXES

5.01 Within sixty (60) days after acceptance of this Agreement by AT&T, LICENSEE shall pay to AT&T the fees required by the Supplement(s) initially attached hereto for the DESIGNATED CPUs listed in such Supplement(s).

5.02 Within sixty (60) days after acceptance of each additional Supplement by AT&T, LICENSEE shall pay to AT&T any fee required by such additional Supplement for the DESIGNATED CPUs listed in such additional Supplement.

5.03 Payments to AT&T shall be made in United States dollars to AT&T at the address specified in Section 7.11(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 by any governmental entity within the United States proper (the fifty (50) states and the District of Columbia). Fees specified in Supplement(s) to this Agreement and in Schedule(s) attached to Supplement(s) are exclusive of any taxes. If AT&T is required to collect a tax to be paid by LICENSEE, LICENSEE shall pay such tax to AT&T on demand.

VI. TERM

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

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

6.03 If LICENSEE fails to fulfill one or more of its obligations under this Agreement, AT&T 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 subject to this Agreement.

6.04 In the event of termination of rights under Sections 6.02 or 6.03, AT&T 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 subject to this Agreement shall immediately cease, and (ii) such former SUBSIDIARY shall immediately discontinue use of and return to LICENSEE or destroy all copies of SOFTWARE PRODUCTS subject to this Agreement. No fees paid to AT&T for use of SOFTWARE PRODUCTS on DESIGNATED CPUs of such former SUBSIDIARIES shall be refunded; however, LICENSEE may substitute other CPUs for such DESIGNATED CPUs in accordance with Section 2.03.

VII. MISCELLANEOUS PROVISIONS

7.01 Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent or trademark. However, in respect of patents under which AT&T can grant rights, AT&T grants to LICENSEE all such rights necessary for the use by LICENSEE, pursuant to the rights granted herein, of SOFTWARE PRODUCTS, except to the extent that such patents apply (i) independently of the use of any such SOFTWARE PRODUCT, (ii) because a DESIGNATED CPU is used in combination with other hardware or (iii) because any such SOFTWARE PRODUCT is modified from the version furnished hereunder to LICENSEE by AT&T or is used in combination with other software.

7.02 This Agreement shall prevail notwithstanding any conflicting terms or legends which may appear in a SOFTWARE PRODUCT.

7.03 AT&T warrants that it is empowered to grant the rights granted hereunder. AT&T makes no other representations or warranties, expressly or impliedly. By way of example but not of limitation, AT&T makes 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 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.

7.04 LICENSEE agrees that it will not, without the prior written permission of AT&T, (i) use in advertising, publicity, packaging, labeling or otherwise any trade name, trademark, trade device, service mark, symbol or any other identification or any abbreviation, contraction or simulation thereof owned by AT&T (or a corporate affiliate thereof) or used by AT&T (or such an affiliate) 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 (or such an affiliate), or is made in accordance with or utilizes any information or documentation of AT&T (or such an affiliate).

7.05 Neither the execution of this Agreement nor anything in it or in any SOFTWARE PRODUCT shall be construed as an obligation upon AT&T to furnish any person, including LICENSEE, any assistance of any kind whatsoever, or any information or documentation other than the SOFTWARE PRODUCTS to be furnished pursuant to Sections 3.01 and 3.02.

7.06 (a) LICENSEE agrees that it shall hold all parts of the SOFTWARE PRODUCTS subject to this Agreement in confidence for AT&T. LICENSEE further agrees that it shall not make any disclosure of any or all of such SOFTWARE PRODUCTS (including methods or concepts utilized therein) to anyone, except to employees 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 subject to this Agreement at any time becomes available without restriction to the general public by acts not attributable to LICENSEE or its employees, LICENSEE'S obligations under this section shall not apply to such information after such time.

(b) Notwithstanding the provisions of Section 7.06(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 (or a corporate affiliate thereof) for the same SOFTWARE PRODUCT, provided that LICENSEE first verifies the status of any such third party in accordance with specific instructions issued by AT&T. Such instructions may be obtained on request from AT&T at the correspondence address specified in Section 7.11(b). 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 as if they were part of such SOFTWARE PRODUCT.

7.07 The obligations of LICENSEE and its employees under Section 7.06(a) shall survive and continue after any termination of rights under this Agreement or cessation of a SUBSIDIARY'S status as a SUBSIDIARY.

7.08 LICENSEE agrees that it will not use SOFTWARE PRODUCTS subject to this Agreement except as authorized herein and that it will not make, have made or permit to be made any copies of such SOFTWARE PRODUCTS except for use on DESIGNATED CPUs for such SOFTWARE PRODUCTS (including backup and archival copies necessary in connection with such use) and for distribution in accordance with Section 7.06(b). Each such copy shall contain the same copyright and/or proprietary notices or notice giving credit to a developer, which appear on or in the SOFTWARE PRODUCT being copied.

7.09 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.

7.10 Except as provided in Section 7.06(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.

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

AT&T TECHNOLOGIES, INC.
P.O. Box 65080
Charlotte, North Carolina 28265

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

AT&T TECHNOLOGIES, INC.
Software Sales and Marketing Organization
P.O. Box 25000
Greensboro, North Carolina 27420

(c) Any payment, statement, 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 at the appropriate address specified in this Section 7.11. Each party to this Agreement may change an address relating to it by written notice to the other party.

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

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

EXHIBIT 6

SS-Sub.-030?)10385 Agreement N ber SUB-000321A

AT&T TECHNOLOGIES, INC.
SUBLICENSING AGREEMENT

1. AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), having an office at 1 Oak Way, Berkeley Heights, New Jersey 07922, and SEQUENT COMPUTER SYSTEMS, INC., a Delaware corporation

having an office at 14360 N. W. Science Park Drive, Portland, Oregon 97229,

for itself and its SUBSIDIARIES (collectively referred to herein as "LICENSEE") agree that, after execution of this Sublicensing Agreement by LICENSEE and acceptance of this Sublicensing Agreement by AT&T, the terms and conditions set forth on pages 1 through 9 of this Sublicensing Agreement shall apply to the SOFTWARE PRODUCTS subject to Software Agreement Number between AT&T and LICENSEE ("the Software Agreement").

2. The discount percentage applicable to per-copy fees payable hereunder shall be % during the initial period. The advance commitment for the initial period shall be $ (See Section 4.02).

3. Except as otherwise specifically provided herein, all the provisions of the Software Agreement remain in full force and effect.

4. This Sublicensing Agreement, together with the Software Agreement and its Supplement(s), 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 effective date 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.

Accepted by:

SEQUENT COMPUTER SYSTEMS, INC.

By David P. Rodgers 1/20/86
(Signature) (Date)

DAVID P. RODGERS
(Type or print name)

VICE-PRESIDENT
(Title)

AT&T TECHNOLOGIES, INC.

By O. L. Wilson JAN 28 1986
(Signature) (Date)

O. L. WILSON
(Type or print name)

Manager, Software Sales and Marketing
(Title)

I. DEFINITIONS

1.01 The terms "CPU", "COMPUTER PROGRAM", "SOFTWARE PRODUCT" and "SUBSIDIARIES" are defined in the Software Agreement.

1.02 AUTHORIZED COPIER means a DISTRIBUTOR authorized by LICENSEE to make copies of SUBLICENSED PRODUCTS.

1.03 DISTRIBUTOR means an entity authorized by LICENSEE or another DISTRIBUTOR to receive copies of SUBLICENSED PRODUCTS from LICENSEE or another DISTRIBUTOR and furnish such copies to customers and/or other DISTRIBUTORS.

1.04 SUBLICENSED PRODUCT means (i) COMPUTER PROGRAMS in object-code format based on a SOFTWARE PRODUCT subject to the Software Agreement and (ii) any other materials identified in the "Sublicensing" section of the Schedule for such SOFTWARE PRODUCT.

II. GRANT OF RIGHTS

2.01 Notwithstanding any provisions to the contrary in the Software Agreement, AT&T grants to LICENSEE personal, nontransferable and nonexclusive rights:

(a) 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 U.S. government export restrictions) for use on customer CPUs solely for each such customer's internal business purposes, 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 on one CPU at a time 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 on such one CPU;

(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;

(b) to use SUBLICENSED PRODUCTS on LICENSEE'S CPUs solely for LICENSEE'S own internal business purposes; and

(c) to use, and to permit DISTRIBUTORS to use, SUBLICENSED PRODUCTS without fee solely for testing CPUs that are to be delivered to customers and for demonstrating SUBLICENSED PRODUCTS to prospective customers.

2.02 In the United States and in other jurisdictions where an enforceable copyright covering the COMPUTER PROGRAMS of the SUBLICENSED PRODUCT exists, the agreement specified in Section 2.01(a) may be a written agreement signed by the customer or a written agreement on the package containing the SUBLICENSED PRODUCT that is fully visible to the customer and that the customer accepts by opening the package. In all other jurisdictions such agreement must be a written agreement signed by the customer. AT&T 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 Sections 2.01, 2.02, 2.04, 2.07, this Section 2.03 and Section 3.05 of this Sublicensing Agreement. For a DISTRIBUTOR who is also to be an AUTHORIZED COPIER, such agreement shall also include provisions consistent with and containing the relevant substance of Sections 2.05, 2.08, 2.10 and 5.01 of this Sublicensing Agreement.

2.04 DISTRIBUTORS who are not also AUTHORIZED COPIERS may not make copies of SUBLICENSED PRODUCTS, but may furnish to customers copies of SUBLICENSED PRODUCTS furnished to such DISTRIBUTOR by LICENSEE or other DISTRIBUTORS. In such cases the product name appearing on such copies shall not be deleted or altered by such a DISTRIBUTOR.

2.05 (a) A DISTRIBUTOR who is also an AUTHORIZED COPIER 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 2.10), and furnish such copies to customers and other DISTRIBUTORS.

(b) If an AUTHORIZED COPIER also has been granted a right to use a SOFTWARE PRODUCT, either as a licensee of AT&T (or of a corporate affiliate thereof) or as a contractor of LICENSEE (in accordance with requirements of AT&T), such AUTHORIZED COPIER may use such SOFTWARE PRODUCT to modify a SUBLICENSED PRODUCT derived from such SOFTWARE PRODUCT. If LICENSEE and such AUTHORIZED COPIER agree in writing that all right, title and interest in the resulting modifications belong to LICENSEE, then copies of such modified SUBLICENSED PRODUCT may be furnished to such customers and fees for such copies may be paid to AT&T pursuant to this Sublicensing Agreement. However, if all right, title and interest in the resulting modifications do not belong to LICENSEE then such AUTHORIZED COPIER must be a licensee of AT&T (or of a corporate affiliate thereof) for such SOFTWARE PRODUCT and copies of such modified SUBLICENSED PRODUCT must be furnished to customers and fees must be paid to AT&T only pursuant to a Sublicensing Agreement between AT&T and such AUTHORIZED COPIER, even if the version of such SOFTWARE PRODUCT used by such AUTHORIZED COPIER is furnished to such AUTHORIZED COPIER by LICENSEE. Regardless of which Sublicensing Agreement is involved in furnishing a copy of a SUBLICENSED PRODUCT to a customer, only one fee shall be collected by AT&T for such copy.

2.06 LICENSEE shall use its best efforts to enforce the agreements with DISTRIBUTORS and customers specified in this Sublicensing Agreement.

2.07 If a DISTRIBUTOR fails to fulfill one or more of its obligations under the agreement required by Section 2.03, AT&T 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.

2.08 (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 AUTHORIZED COPIERS.

(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.

2.09 In certain cases AT&T may make copies of software materials available on appropriate media for purchase by LICENSEE for distribution by LICENSEE as SUBLICENSED PRODUCTS. However, purchase of such copies shall not relieve LICENSEE of its obligation to pay fees under this Sublicensing Agreement for such SUBLICENSED PRODUCTS.

2.10 No right is granted hereunder or under the Software Agreement to use any trademark of AT&T (or a corporate affiliate thereof) in the name of the SUBLICENSED PRODUCTS offered or furnished to customers by LICENSEE or DISTRIBUTORS. However, LICENSEE and DISTRIBUTORS may state in advertising, publicity, packaging, labeling or otherwise that a SUBLICENSED PRODUCT is derived from AT&T'S software under license from AT&T and identify such software (including any trademark, provided the proprietor of the trademark is appropriately identified). LICENSEE agrees, for itself and its DISTRIBUTORS, not to use a name or trademark for a SUBLICENSED PRODUCT that is confusingly similar to a name or trademark used by AT&T (or a corporate affiliate thereof).

III. TERM

3.01 This Sublicensing Agreement shall become effective for an initial period that expires one year from the end of the quarter (ending March 31st, June 30th, September 30th or December 31st) during which this Sublicensing Agreement is accepted.

3.02 Unless LICENSEE notifies AT&T in writing ~~or AT&T notifies LICENSEE in writing~~ at least thirty (30) days before the expiration date established in Section 3.01 that such party does not wish renewal, this Sublicensing Agreement shall be renewed automatically for an additional one-year period and shall continue to be renewed in such a manner from year to year. Alternatively, new one-year periods may be initiated as specified in Section 4.02(d).

3.03 If LICENSEE fails to fulfill one or more of its obligations under this Sublicensing Agreement or the Software Agreement, AT&T 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 and under the Software Agreement 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 covered by the Software Agreement and immediately discontinue distribution and use of and destroy all copies of SUBLICENSED PRODUCTS in its possession.

3.04 Neither the expiration of this Sublicensing Agreement nor the termination of LICENSEE'S rights hereunder shall relieve LICENSEE of its obligation to pay any fee hereunder. In the event of termination of LICENSEE'S rights hereunder, all fees that LICENSEE has become obligated to pay hereunder shall become immediately due and payable.

3.05 LICENSEE agrees that when a SUBSIDIARY'S or a DISTRIBUTOR'S relationship to LICENSEE changes so that it is no longer a SUBSIDIARY or a DISTRIBUTOR of LICENSEE, all rights of such former SUBSIDIARY or DISTRIBUTOR under this Sublicensing Agreement shall immediately cease, and such former SUBSIDIARY or DISTRIBUTOR shall return to LICENSEE or destroy all copies of SUBLICENSED PRODUCTS for which per-copy fees have not been paid to AT&T. However, such former SUBSIDIARY or DISTRIBUTOR may continue to use copies of SUBLICENSED PRODUCTS for which per-copy fees have been paid on the same basis that a customer may use copies of SUBLICENSED PRODUCTS pursuant to Section 2.01(a).

IV. FEES AND DISCOUNTS

4.01 (a) For rights granted under this Sublicensing Agreement, LICENSEE shall pay to AT&T, in the manner and at the times specified in Article V, any initial sublicensing fee specified for the SOFTWARE PRODUCT on which a SUBLICENSED PRODUCT is based and a per-copy fee for each copy of a SUBLICENSED PRODUCT either (i) furnished by LICENSEE to a customer or to a DISTRIBUTOR, (ii) made by an AUTHORIZED COPIER and furnished by such AUTHORIZED COPIER to a customer or to another DISTRIBUTOR or (iii) put into use by LICENSEE on a CPU of LICENSEE. The amounts of such sublicensing fees are listed in the Schedule for each SOFTWARE PRODUCT.

(b) Amounts paid to AT&T under this Sublicensing Agreement for a copy of a SUBLICENSED PRODUCT furnished to a particular customer shall not be creditable toward any fees payable under any agreement between AT&T (or between a corporate affiliate thereof) and such customer.

(c) Fees paid to AT&T under this Sublicensing Agreement shall not be creditable toward fees that become payable under the Software Agreement. Fees paid under the Software Agreement shall not be creditable toward fees that become payable under this Sublicensing Agreement.

(d) No additional fee is payable for the transfer of a SUBLICENSED PRODUCT from one customer to another customer in conjunction with the transfer of a CPU between such customers, provided that the first customer does not retain any portion of the SUBLICENSED PRODUCT after such transfer and that agreement of the second customer is obtained in accordance with Sections 2.01 and 2.02. Such transfer of a SUBLICENSED PRODUCT may result from, for example, a sale of a CPU by the first customer to the second customer or the termination of a lease with the first customer for a CPU and the execution of a new lease with the second customer for such CPU.

(e) No additional fee is payable for the transfer of a SUBLICENSED PRODUCT from one CPU of LICENSEE to another or the transfer of a SUBLICENSED PRODUCT from one CPU of a customer to another CPU of the same customer.

4.02 (a) The discount percentage applicable during the initial period referred to in Section 3.01 shall be based on LICENSEE'S advance commitment to pay a specified minimum total amount of discounted per-copy fees for SUBLICENSED PRODUCTS furnished or put into use during such initial period. If no such commitment is made, no discount shall be available during the initial period. The discount percentage and the advance commitment, if any, for the initial period are set forth on page 1 of this Sublicensing Agreement. The discount percentage applicable during each additional one-year period referred to in Section 3.02 shall be based either on LICENSEE'S advance commitment to pay a specified minimum total amount of discounted per-copy fees for such additional one-year period or on the actual total of such fees payable for the preceding period, as LICENSEE shall elect.

(b) Such discount percentage shall be two percent (2%) for each whole one hundred thousand dollars ($100,000.00) of either the advance commitment or the actual total for the preceding period, as the case may be, up to a maximum of sixty percent (60%).

(c) If LICENSEE elects to base its discount percentage for a forthcoming additional period on its advance commitment, LICENSEE shall notify AT&T in writing of the amount of such advance commitment before the end of the preceding period. If such notification is not received by such time, such discount percentage shall be based on the actual total of discounted per-copy fees payable for the preceding period.

(d) An advance commitment may not be reduced. However, LICENSEE may at any time request of AT&T in writing that the then-current initial period or additional one-year period be terminated and that a new one-year period be started, beginning with the next quarter, for which new period LICENSEE shall make an advance commitment corresponding to a higher discount percentage than that currently applicable. Such request will be subject to AT&T'S acceptance. In the case of such termination and start of a new period, the discount percentage for the terminated period shall apply to all transactions occurring before the end of such period.

4.03 The section of the Software Agreement relating to taxes shall apply to fees payable under this Sublicensing Agreement.

V. REPORTS AND PAYMENTS

5.01 (a) LICENSEE shall keep full, clear and accurate records of the number of copies of each SUBLICENSED PRODUCT furnished by it and AUTHORIZED COPIERS to other DISTRIBUTORS and customers and put into use on LICENSEE'S CPUs.

(b) Each AUTHORIZED COPIER shall keep full, clear and accurate records of the number of copies of each SUBLICENSED PRODUCT furnished by it to other DISTRIBUTORS and customers.

(c) Each AUTHORIZED COPIER shall furnish a statement at least quarterly to LICENSEE identifying the number of copies recorded according to Section 5.01(b) since the previous such statement was furnished.

(d) LICENSEE shall keep full, clear and accurate records of the identities and locations of AUTHORIZED COPIERS.

(e) AT&T shall have the right through its accredited auditing representatives to make an examination and audit, during normal business hours, not more frequently than annually, of all records kept pursuant to this Section by LICENSEE and AUTHORIZED COPIERS and such other records and accounts as may under recognized accounting practices contain information bearing upon the amounts of fees payable to it under this Sublicensing Agreement. Prompt adjustment shall be made by the proper party to compensate for any errors or omissions disclosed by such examination or audit. Neither such right to examine and audit nor the right to receive such adjustment shall be affected by any statement to the contrary, appearing on checks or otherwise, unless such statement appears in a letter, signed by the party having such right and delivered to the other party, expressly waiving such right.

5.02 (a) LICENSEE shall notify AT&T in writing at least thirty (30) days in advance of the date LICENSEE intends to begin furnishing copies of a SUBLICENSED PRODUCT to customers or DISTRIBUTORS or putting any such copies into use on LICENSEE'S CPUs. Before such date LICENSEE shall pay to AT&T any initial sublicensing fee specified for the SOFTWARE PRODUCT on which such SUBLICENSED PRODUCT is based. Discount percentages established under Section 4.02 do not apply to initial sublicensing fees.

(b) Within thirty (30) days after the end of each quarter ending on March 31st, June 30th, September 30th or December 31st, commencing with the quarter during which this Sublicensing Agreement first becomes effective, LICENSEE shall furnish to AT&T a statement, in form acceptable to AT&T, certified by an authorized representative of LICENSEE, identifying the number of copies of each SUBLICENSED PRODUCT furnished by it and AUTHORIZED COPIERS or put into use on LICENSEE'S CPUs, the SOFTWARE PRODUCT on which each such SUBLICENSED PRODUCT is based, the per-copy fees for such copies and the net fees payable after the applicable discount percentage is taken into account. If the per-copy fees for a particular SUBLICENSED PRODUCT are based on a characteristic such as number of users supported, information on such characteristic for the copies of such SUBLICENSED PRODUCT furnished or put into use shall also be included in such statement. Each SUBLICENSED PRODUCT for which LICENSEE has given notice to AT&T pursuant to Section 5.02(a) shall be covered by such statement. In each such statement, LICENSEE shall also fully identify any AUTHORIZED COPIER added or terminated during the quarter covered by such statement.

(c) Within such thirty (30) days LICENSEE shall, irrespective of its own business and accounting methods, pay to AT&T the net fees payable for such quarter as shown in the statement required by Section 5.02(b), except that if the applicable discount percentage is based on an advance commitment for a period, LICENSEE shall pay the net fees payable for such quarter plus any additional amount necessary for the total of amounts paid for such period after the first, second, third and fourth full quarters thereof to be, respectively, one-quarter, one-half, three-quarters and the full amount of such advance commitment. Any such additional amount paid during a period shall be creditable against net fees payable later in the same period, but no such additional amount remaining at the end of the fourth full quarter of a period shall be refunded or creditable against any other amounts payable to AT&T. If AT&T accepts a new one-year period pursuant to Section 4.02(d), no such additional amount remaining at the end of the last full quarter of the terminated period shall be refunded or creditable against any other amounts payable to AT&T.

(d) LICENSEE shall furnish whatever additional information AT&T may reasonably prescribe from time to time to enable AT&T to ascertain the amounts of fees payable pursuant hereto.

5.03 Payments provided for in this Sublicensing Agreement shall, when overdue, be subject to a late payment charge calculated at an annual rate of one percent (1%) 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. MISCELLANEOUS PROVISIONS

6.01 Neither this Sublicensing 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.

6.02 (a) Payments to AT&T under this Sublicensing Agreement shall be made payable and sent to:

AT&T TECHNOLOGIES, INC.
P.O. Box 65080
Charlotte, North Carolina 28265

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

AT&T TECHNOLOGIES, INC.
Software Sales and Marketing Organization
P.O. Box 25000
Greensboro, North Carolina 27420

(c) Any payment, statement, 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 Sublicensing Agreement or to AT&T at the appropriate address specified in this Section 6.02. Each party to this Sublicensing Agreement may change an address relating to it by written notice to the other party.

6.03 The limited grant of rights under patents in the Software Agreement applies to any use permitted under Section 2.01 of this Sublicensing Agreement.

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

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

EXHIBIT 7

SS-SNA-041084 Agreement Numbe[illegible]FER-000321B

AT&T TECHNOLOGIES, INC.
Substitution Agreement

The following agreements ("the prior agreements") are in effect between AT&T TECHNOLOGIES, INC., a New York corporation ("AT&T"), or an affiliate thereof, and SEQUENT COMPUTER SYSTEMS, INC., a Delaware corporation, ("LICENSEE"):

1. April 1, 1983 Software Agreement, as Modified, relating to UNIX™ System V, Release 2.0 and other UNIX Operating Systems.

2. March 1, 1984 Supplemental Agreement (Customer Provisions) relating to UNIX System V, Release 2.0 and other UNIX Operating Systems.

Agreement Numbers SOFT-000321 and SUB-000321A -----between AT&T and LICENSEE ("the new agreements") are hereby substituted for the prior agreements. Accordingly, the rights and obligations of the parties under the prior agreements are terminated and replaced by the rights and obligations of the parties under the new agreements. No other agreements between the parties hereto are affected by this Agreement.

The following provision is: ☐ applicable

☒ XX not applicable:

The discount percentage for the initial period pursuant to Agreement No. is %, based on total per-copy fees of $ paid by LICENSEE under the prior Supplemental Agreement (Customer Provisions) listed above relating to UNIX® System III and/or UNIX System V.

SEQUENT COMPUTER SYSTEMS, INC.

By David P. Rodgers 1/20/86
(Signature) (Date)

DAVID P RODGERS
(Type or print name)

VICE-PRESIDENT
(Title)

Accepted by:

AT&T TECHNOLOGIES, INC.

By O. L. Wilson JAN 28 1986
(Signature) (Date)

O. L. WILSON
(Type or print name)

Manager - Software Sales and Marketing
(Title)

EXHIBIT 8

[redacted] Corp.-030184-070185 Agreement Number SUFT-000302

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 THE SANTA CRUZ OPERATION, INC., a California corporation, ----- having an office at 500 Chestnut Street, Santa Cruz, California 95061 ----------

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 SOFTWARE PRODUCTS that become subject to this Agreement.

2. AT&T-IS makes certain SOFTWARE PRODUCTS available under this Agreement. Each such SOFTWARE PRODUCT shall become subject to this Agreement on acceptance by AT&T-IS of a Supplement executed by LICENSEE that identifies such SOFTWARE PRODUCT and lists the DESIGNATED CPUs therefor. The first Supplement for a specific SOFTWARE PRODUCT shall have attached a Schedule for such SOFTWARE PRODUCT. Any additional terms and conditions set forth in such Schedule shall also apply with respect to such SOFTWARE PRODUCT. Initially, Supplement(s) numbered 1 ---------- ---------- are included in and made part of this Agreement.

3. Additional Supplements may be added to this Agreement to add additional SOFTWARE PRODUCTS (and DESIGNATED CPUs therefor) or to add or replace DESIGNATED CPUs for other SOFTWARE PRODUCTS covered by previous Supplements. Each such additional Supplement shall be considered part of this Agreement when executed by LICENSEE, if required, and accepted by AT&T-IS.

4. This Agreement and its Supplements set forth the entire agreement and understanding between the parties as to the subject matter hereof and merge 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:

SCO CONFIDENTIAL
DO NOT [redacted]

THE SANTA CRUZ OPERATION, INC.	AT&T INFORMATION SYSTEMS INC.
By [signature] (Signature) (Date)	By [signature] MAY 6 1987 (Signature) (Date)
Larry Michels (Type or print name)	O. L. WILSON (Type or print name)
President (Title)	Manager, UNIX® Software Licensing (Title)

I. DEFINITIONS

1.01 CPU means central processing unit.

1.02 COMPUTER PROGRAM means any instruction or instructions, in source-code or object-code format, for controlling the operation of a CPU.

1.03 DESIGNATED CPU means any CPU listed as such for a specific SOFTWARE PRODUCT in a Supplement to this Agreement.

1.04 SOFTWARE PRODUCT means materials such as COMPUTER PROGRAMS, information used or interpreted by COMPUTER PROGRAMS and documentation relating to the use of COMPUTER PROGRAMS. Materials available from AT&T-IS for a specific SOFTWARE PRODUCT are listed in the Schedule for such SOFTWARE PRODUCT. Certain SOFTWARE PRODUCTS available under this Agreement may contain materials prepared by other developers.

1.05 SUBSIDIARY of a company means a corporation or other legal entity (i) the majority of whose shares or other securities entitled to vote for election of directors (or other managing authority) is now or hereafter controlled by such company either directly or indirectly; or (ii) the majority of the equity interest in which is now or hereafter owned and controlled by such company either directly or indirectly; but any such corporation or other legal entity shall be deemed to be a SUBSIDIARY of such company only so long as such control or such ownership and control exists.

II. GRANT OF RIGHTS

2.01 AT&T-IS grants to LICENSEE a personal, nontransferable and nonexclusive right to use in the United States each SOFTWARE PRODUCT identified in the one or more Supplements hereto, solely for LICENSEE'S own internal business purposes and solely on or in conjunction with DESIGNATED CPUs for such SOFTWARE PRODUCT. Such right to use includes the right 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 subject to this Agreement 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.

2.02 (a) LICENSEE may permit access to SOFTWARE PRODUCTS by its contractors and allow use of SOFTWARE PRODUCTS by its contractors on DESIGNATED 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 2.02(f) of this Agreement. LICENSEE may designate contractors' CPUs as DESIGNATED CPUs pursuant to Section 2.04 and furnish SOFTWARE PRODUCTS to contractors for use on such 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 subject to this Agreement 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 2.02. 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.

2.03 A single back-up CPU may be used as a substitute for a DESIGNATED CPU without notice to AT&T-IS during any time when such DESIGNATED CPU is inoperative because it is malfunctioning or undergoing repair, maintenance or other modification.

2.04 LICENSEE may at any time notify AT&T-IS in writing of any changes, such as replacements or additions, that LICENSEE wishes to make to the DESIGNATED CPUs for a specific SOFTWARE PRODUCT. AT&T-IS will prepare additional Supplements as required to cover such changes. Changes covered by a Supplement shall become effective after execution of such Supplement by LICENSEE, if required, acceptance thereof by AT&T-IS and, in the case of each additional CPU, receipt by AT&T-IS of the appropriate fee.

2.05 On AT&T-IS'S request, but not more frequently than annually, LICENSEE shall furnish to AT&T-IS a statement, certified by an authorized representative of LICENSEE, listing the location, type and serial number of all DESIGNATED CPUs hereunder and stating that the use by LICENSEE of SOFTWARE PRODUCTS subject to this Agreement has been reviewed and that each such SOFTWARE PRODUCT is being used solely on DESIGNATED CPUs (or temporarily on back-up CPUs) for such SOFTWARE PRODUCTS in full compliance with the provisions of this Agreement.

2.06 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, except LICENSEE'S contractors pursuant to Section 2.02, unless such uses are permitted for a particular SOFTWARE PRODUCT by a specific provision in the Schedule for such SOFTWARE PRODUCT. For example, use of a SOFTWARE PRODUCT in a time-sharing service or a service-bureau operation is permitted only pursuant to such a specific provision.

III. DELIVERY

3.01 Within a reasonable time after AT&T-IS receives the fee specified in the first Supplement for a SOFTWARE PRODUCT, AT&T-IS will furnish to LICENSEE one (1) copy of such SOFTWARE PRODUCT in the form identified in the Schedule for such SOFTWARE PRODUCT.

3.02 Additional copies of SOFTWARE PRODUCTS covered by this Agreement will be furnished to LICENSEE after receipt by AT&T-IS of the then-current distribution fee for each such copy.

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 covered by this Agreement 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.

Amended per Letter 8-4-89

V. FEES AND TAXES

5.01 Within sixty (60) days after acceptance of this Agreement by AT&T-IS, LICENSEE shall pay to AT&T-IS the fees required by the Supplement(s) initially attached hereto for the DESIGNATED CPUs listed in such Supplement(s).

5.02 Within sixty (60) days after acceptance of each additional Supplement by AT&T-IS, LICENSEE shall pay to AT&T-IS any fee required by such additional Supplement for the DESIGNATED CPUs listed in such additional Supplement.

5.03 Payments to AT&T-IS shall be made in United States dollars to AT&T-IS at the address specified in Section 7.10(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). Fees specified in Supplement(s) to this Agreement and in Schedule(s) attached to Supplement(s) do not include taxes. 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.

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 subject to this Agreement.

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 subject to this Agreement.

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 subject to this Agreement shall immediately cease, and (ii) such former SUBSIDIARY shall immediately discontinue use of and return to LICENSEE or destroy all copies of SOFTWARE PRODUCTS subject to this Agreement. No fees paid to AT&T-IS for use of SOFTWARE PRODUCTS on DESIGNATED CPUs of such former SUBSIDIARIES shall be refunded; however, LICENSEE may substitute other CPUs for such DESIGNATED CPUs in accordance with Section 2.04.

VII. MISCELLANEOUS PROVISIONS

7.01 This Agreement shall prevail notwithstanding any conflicting terms or legends which may appear in a SOFTWARE PRODUCT.

7.02 AT&T-IS warrants for a period of ninety (90) days from furnishing a SOFTWARE PRODUCT to LICENSEE that any magnetic medium on which portions of a SOFTWARE PRODUCT are furnished will be free under normal use from defects in materials, workmanship or recording. If such a defect appears within such warranty period LICENSEE may return the defective medium for replacement without charge. Replacement is LICENSEE'S sole remedy with respect to such a defect. AT&T-IS also warrants that it is empowered to grant the rights granted herein. 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.

7.03 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 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.

7.04 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 furnished by AT&T-IS pursuant to Sections 3.01 and 3.02.

7.05 (a) LICENSEE agrees that it shall hold all parts of the SOFTWARE PRODUCTS subject to this Agreement in confidence for AT&T-IS. LICENSEE further agrees that it shall not make any disclosure of any or all of such 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 subject to this Agreement 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 7.05(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 7.10(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.

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

7.07 LICENSEE agrees that it will not use SOFTWARE PRODUCTS subject to this Agreement except as authorized herein and that it will not make, have made or permit to be made any copies of such SOFTWARE PRODUCTS except for use on DESIGNATED CPUs for such SOFTWARE PRODUCTS (including backup and archival copies necessary in connection with such use) and for distribution in accordance with Section 7.05(b). 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 being copied. Specific instructions regarding such notices may also appear in the Schedules for certain SOFTWARE PRODUCTS.

7.08 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.

7.09 Except as provided in Section 7.05(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.

7.10 (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 statement, 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 7.10. Each party to this Agreement may change an address relating to it by written notice to the other party.

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

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

EXHIBIT 9

GNU General Public License

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Version 2, June 1991

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