



AT&T
Technology Systems

G. L. Wilson
Manager, Software
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Greensboro, N.C. 27420
919 279-7078

September 5, 1984

MR. LESTER S. GRODBERG
Digital Equipment Corporation
111 Powdermill Road
Maynard, Massachusetts 01754

Dear Mr. Grodberg:

Re: Proposed Software Agreement SOFT-00092 Between
Our Companies

This responds to your letters of August 15 and August 20, 1984 relating to the referenced Software Agreement. The numbered paragraphs correspond to the numbers in the attachment accompanying your letter of August 15. We understand that Digital Equipment Corporation ("DEC") accepts AT&T's current position on the issues raised by Mr. Grodberg's letter of August 15, 1984 to achieve our mutual short term goal with the understanding that both parties will enter into further negotiations to resolve these issues.

1. and 2. We understand that you want the new agreement to cover only two CPUs that you have identified; accordingly, the attached Supplements 1 and 2 name only those two CPUs as DESIGNATED CPUs. It is agreed that licenses for UNIX* System V, Release 2.0 and UNIX Documenter's Workbench** Software are granted for use on these two CPUs only for a fee of eight hundred dollars (\$800.00). This reflects a four hundred dollar (\$400.00) fee to upgrade both CPUs from UNIX System V, Release 1.1 to UNIX System V, Release 2.0 and UNIX Documenter's Workbench Software, and distribution of the BDP 11/70 version, and a four hundred dollar (\$400.00) additional distribution fee for the VAX 11/780 version. These fees are in lieu of the right-to-use fees listed on the Schedules attached to Supplements 1 and 2. It is understood and agreed that the terms and conditions of the referenced Software Agreement shall apply only to the two DESIGNATED CPUs and that the terms and conditions of previous agreements shall apply to the use of other CPUs for which DEC is licensed. With respect to the two DESIGNATED CPUs only, the referenced Software Agreement shall be regarded as replacing all applicable previous agreements. The SOFTWARE PRODUCTS licensed under the referenced Software Agreement may not be used on any CPUs

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

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

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except such two DESIGNATED CPUs and will be made available only to those DEC employees involved with the development of the UDA 50 driver. It is agreed that licenses to use UNIX System V, Release 2.0 and UNIX Documenter's Workbench Software will be granted for other CPUs licensed under previous agreements for UNIX System V, Releases 1.0 and 1.1 at no additional fee, provided that agreement can be reached on the terms and conditions of such licenses.

3. Regarding Section 2.01 of the referenced Software Agreement, you do not have all right, title and interest in derivative works based on a SOFTWARE PRODUCT if such derivative works include any of our code or embody any of the methods and concepts used in a SOFTWARE PRODUCT. Copies of such derivative works may be furnished to customers as SUBLICENSED PRODUCTS under a Sublicensing Agreement. If in creating the derivative work you use the code in a SOFTWARE PRODUCT or use methods and concepts from a SOFTWARE PRODUCT or a SUBLICENSED PRODUCT, and such derivative work does not include any of our code or otherwise embody any of our methods and concepts, you may consider that you have all right, title and interest to such derivative work and such derivative work will not be subject to the provisions of the referenced Software Agreement. If such derivative work does include any of our code or embody any of our methods and concepts you may have a property right in such derivative work to the extent of any modifications that you have added, but the exercise of that property right is subject to the terms of the Software and Sublicensing Agreements, including to the restrictions on the use of the SOFTWARE PRODUCT (for example, it must be kept in confidence).
4. It is not our practice to ship software to a licensee until an agreement has been fully executed and payment received by AT&T.
5. With reference to Section 4.01, we agree that consent by AT&T to export SOFTWARE PRODUCTS for use on a DESIGNATED CPU of a SUBSIDIARY or other licensee of equivalent scope will not be unreasonably withheld.
6. AT&T maintains a listing of states which it believes apply sales and/or use taxes to software licensed therein. Any such tax is reflected on the invoice accompanying the software agreement. New York is not currently on that listing.

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7. We expect to keep archive copies of SOFTWARE PRODUCTS we license. Thus, if your rights under the referenced Software Agreement are ever terminated and you are subsequently required to gain access to a SOFTWARE PRODUCT licensed under such agreement such access can be provided to our archive copy under appropriate protective arrangements.

We are willing to consider entry into an escrow agreement as you have described in your August 20 letter.

8. This point has been dropped.

9. AT&T's grant of rights to modify SOFTWARE PRODUCTS under Section 2.01 does not relate to patents. Under Section 7.01 AT&T's grant of patent licenses specifically excludes cases where the patent applies because of a modification of the SOFTWARE PRODUCT.

10. AT&T Technologies Software Sales and Marketing organization is not aware of any patent, trade secret or copyright infringement action against AT&T Technologies or its affiliates relating to the software covered by the referenced Software Agreement.

11. Regarding Section 7.04, AT&T agrees that the permission referred to in this section will not be unreasonably withheld if such permission is requested in writing.

12. (a) AT&T agrees that the same level of confidentiality that LICENSEE has agreed to for previous UNIX Operating System products shall be continued with the SOFTWARE PRODUCTS covered by the referenced Software Agreement.

- (b) All portions of the SOFTWARE PRODUCTS that have not been published shall be held in confidence. The documents listed in paragraph 2(a) in the Schedule for UNIX System V, Release 2.0 except the System Release Description, the Portfolio and the International Release Description are considered to be published. None of the computer programs listed in paragraph 3 of such Schedule are considered to be published. The documents listed in Section 2(a) in the Schedule for UNIX Documenter's Workbench Software, except the System Release Description, are considered to be published. None of the computer programs listed in paragraph 3 of such Schedule are considered to be published.

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(c) As needed, we will consent to disclosure to a consultant for limited purposes if the consultant agrees to the same obligations of confidentiality and other restrictions pertaining to the use of the SOFTWARE PRODUCT as those undertaken by you under the referenced Software Agreement.

(d) DEC shall have the right to disclose any independently-developed software which software is created without the use of or reference to AT&T Technologies proprietary and confidential information received under the referenced Software Agreement.

(e) On further consideration we still are unwilling to set a time limit on confidentiality or agree to a limit on financial liability.

13. The verification process will be immediate in most cases and we expect it should never be longer than two business days.

14. (a) and (b) This matter is covered in items 1 and 2.

(c) AT&T will give DEC ninety (90) days notice prior to any price changes.

If you agree with the above, please so indicate by signing and dating the attached copy of this letter and returning such copy to us.

Very truly yours,

AT&T TECHNOLOGIES, INC.

By Stan D. Wilson
Mr. S. D. Wilson
Title Manager, Software Sales and Marketing
Date September 5, 1984

ACCEPTED AND AGREED TO:

DIGITAL EQUIPMENT CORPORATION

By J. Smith
Title Vice President, Mfg. & Eng.
Date September 19, 1984