508 - Joint Ventures & Strategic Alliances Bricks & Mortar: Using Legal Cement to Secure the Business Deal

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Faculty Biographies

Mark Chudzinski

Mark A. Chudzinski serves as special counsel to WVT Communications, a public independent telephone company which provides voice, video and data communication services in New York and New Jersey; he also advises other service providers in the telecommunications industry. He previously served as the general counsel of Ameritech International, the international division of the Midwest "Baby Bell", prior to its acquisition by SBC Communications (now AT&T), where he participated in the formation of several joint ventures which acquired $10 billion of equity in four foreign state-owned national telecom companies, as well as joint ventures which established three new wireless telecom operators in Europe and Asia. He participated in governance (as a board member, deputy member or officer) of several non-U.S. affiliates, and facilitated relations with joint venture partners.

Prior to becoming an in-house legal advisor, Mr. Chudzinski was a partner in the corporate law department of Chicago-based Winston & Strawn, where he specialized in international corporate and commercial business transactions. He was previously associated with Coudert Brothers in its New York, London and Sydney offices.

Mr. Chudzinski serves on the boards of the Chicago Legal Clinic and National-Louis University.

Mr. Chudzinski received his B.A. from Northwestern University, his J.D. from Northwestern University School of Law, and his M.B.A. from Northwestern University's Kellogg Graduate School of Management. He also holds a post-graduate law degree in comparative business law from the University of Paris I – Pantheon Sorbonne.

Paul Liebenson

Paul Liebenson is assistant general counsel, transactions, international, and compliance at Tellabs, Inc., a global telecommunications network equipment provider headquartered in Naperville, Illinois.

Before joining Tellabs, Mr. Liebenson was a vice president in the law department at Motorola, and vice president, general counsel, and secretary for Motorola Nortel Communications. He was a partner of Winston & Strawn, where he practiced corporate law and executive director of the Inter-American Legal Services Association in Washington, DC, a nonprofit corporation that promoted legal services for low-income groups in Latin America and the Caribbean.

Mr. Liebenson received a B.A. from Tufts University, an M.A. from The Johns Hopkins School of Advanced International Studies, and a J.D. from Georgetown University Law Center.

Craig McCrohon

Craig McCrohon is a partner at Burke Warren in Chicago, and advises companies and boards of directors regarding acquisitions, director and officer liability, corporate finance, intellectual property, and financial institution regulatory matters. His work has also included negotiating and documenting bank holding company formations, venture capital investments, and joint ventures in Europe and Asia.

Prior to entering private practice in Chicago Mr. McCrohon worked with the legal staff of the United States Senate Committee on Banking, Housing and Urban Affairs. He is listed in Who's Who in American Law, served as president of the technology executives roundtable of the Evanston Northwestern University Research Park, and was named by the Chicago Lawyer as one of the 40 Under 40 Outstanding Illinois Attorneys.

Mr. McCrohon is a graduate of Harvard University and received his J.D. from the University of Pennsylvania and M.B.A. from the Wharton School of Business. He also was a graduate student at the London School of Economics.

Monica Weed

Monica M. Weed is the associate general counsel - transactions for Baxter Healthcare Corporation, a diversified international healthcare company based in Deerfield, Illinois. Her responsibilities include leading a team of up to 15 healthcare and general corporate attorneys and five paralegals in providing business and legal counsel to the company's three global business units and its corporate functions, handling all U.S. contracting matters for the company, and serving as the legal lead for business development activities.

Prior to joining Baxter Healthcare, Ms. Weed served as general counsel and corporate secretary for Information Resources, Inc. in Chicago and as assistant general counsel and assistant corporate secretary for Information Resources prior to being appointed general counsel. Ms. Weed was an associate at the law firm of Sonnenschein Nath and Rosenthal, also in Chicago, prior to joining Information Resources, Inc.

Ms. Weed currently serves on the board of directors of the Girl Scouts of Chicago and is the chairperson of the board of directors of PEER Services, Inc., a community-based substance abuse program in Evanston, Illinois.

Ms. Weed received her B.A. from Northwestern University, her J.D. from Northwestern University School of Law, and her M.B.A. from Northwestern University's Kellogg Graduate School of Management.

508 – Joint Ventures & Strategic Alliances Bricks & Mortar

Mark A. Chudzinski

Selected techniques for protecting the minority investor in a JV

Safeguarding minority interests

- Strategic Plan & Budget
- Governance Participation Rights
- Executive Management: CEO & CFO
- Affiliated Party Relations
- Know-how transfer
- Exit Provisions

Strategic Plan & Budget

- Key documents to agree at the start:
  - Strategic Plan – set the JV's direction
  - Operating Budget – control the purse strings
- The greater the specificity, the better
  - specific contract terms provide better leverage to avoid disputes, and increase the likelihood of success in dispute resolution/enforcement proceedings
  - area for value-added contribution by legal counsel

Governance Participation Rights

- Counting BOD votes – "block voting" per s/h agm't
- BOD Composition
  - 10 directors: 2 minority, 4 majority, 4 "independents"
  - MINORITY DIRECTORS + "INDEPENDENTS" > (or =) 50%
  - Only MINORITY can nominate or remove its reps
  - MINORITY to have 1 director on each committee
- BOD Meetings
  - Quorum = majority (6), including 1 minority dir.
  - Minimum = each fiscal quarter
  - Desired = seven times annualy
  - Unanimous written consent ok
  - Telephone meetings ok

BOD: Minority Veto Rights

- Approval of at least one MINORITY director required:
  - change to Preemptive Rights of shareholders
  - change to Auditors
  - acquisitions/disposals in excess of $X over amount identified in Annual Business Plan
  - unbudgeted capital expenditure exceeding X% of Capex Budget
  - unbudgeted indebtedness exceeding X% of Capex Budget
  - prior to [DATE], any Strategic Alliance or Regulatory Filing having material regulatory impact upon MINORITY

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Minority Consultation Rights

- MINORITY to receive advance notice of action and opportunity to participate in any meetings relating to:
  - all matters subject to MINORITY veto
  - transfer of shares to a Strategic Partner
  - Strategic Alliances
  - appointment/removal of CEO
  - development of Annual Business Plan
  - material changes to accounting and tax policies
  - Regulatory Filings reported to BOD
  - any material transaction, Regulatory Filing or other act
  - dividends/distributions
  - Affiliate Transactions
- Disputes subject to mediation/escalation process

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Executive Management

- CEO (exercising influence over)
  - Appointment
    - secondment
    - selection process
  - Removal
  - Incentivization
    - performance-based compensation
    - equity participation
- CFO (empowering)
  - Require CEO to obtain CFO consensus on BOD agenda items

Affiliated Party Relations

- Affiliate Transactions
  - all to be on "arms length basis"
  - CFO to be notified 5 business days in advance of any Affiliate Transaction of $X
  - MINORITY right to review any Affiliate Transaction of $X
  - PARENT officer to first certify to MINORITY "arms length terms" of any Affiliate Transaction of $X
  - special valuation arbitration in event of dispute
- Transition
  - reasonable efforts to establish separate Finance, Legal, Human Resources and Regulatory departments by [date]

Know-how transfer

- Licensing of intellectual property
  - Maintain ownership and control
- Other Forms of Knowledge Transfer
  - Visits
  - Joint Task Forces
  - Training
  - Internships
  - Consulting
  - Assigned (Seconded) Employee

Exit Provisions

- Sale to JV partner (puts/calls)
  - Pricing/ valuation issues
- Sale to third party
  - Rights of first refusal/ first offer
- Sale to public/ IPO
  - Listing rights

Bricks and Mortar of Joint Ventures: Legal Cement That Secures the Business Deal

Craig McCrohon
Burke Warren

MATERIALS:

1. PowerPoint presentation
2. International Chamber of Commerce Rules of Arbitration
3. Antitrust Enforcement And Intellectual Property Rights - Report of the Federal Trade Commission and United States Department of Justice
4. Antitrust Guidelines for Collaborations Among Competitors – Federal Trade Commission and the United States Department of Justice

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Bricks and Mortar of Joint Ventures: Legal Cement That Secures the Business Deal

Craig McCrohon

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- Non-Legal Stuff
  - The what of the JV
  - The why of the JV
  - The JV Business Risks
- JV Legal Highlights
  - Managing the JV deal
  - Papering the JV deal
  - Top JV legal issues
  - Drafting JV contracts for smooth operation
  - Unwinding JVs

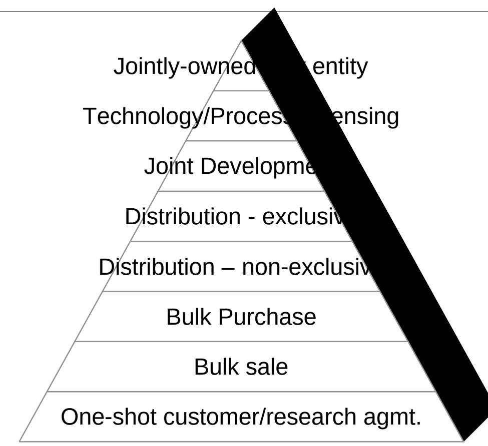
The What and Why of the JV

What (the heck) is a JV?

JV/Alliance Elements:

- Long-term commitments
- Part transaction/part press release – prestige critical
- Bet the company deals (for at least one party)
- Deal with the devil (or at least a competitor or major supplier or customer)
- Legally multi-disciplinary
- Zero-sum element
- Degrees of JV-ness

The Strategic Alliance Contract Continuum

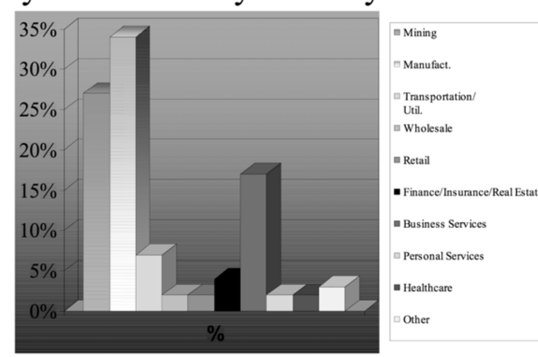


Business Rationales

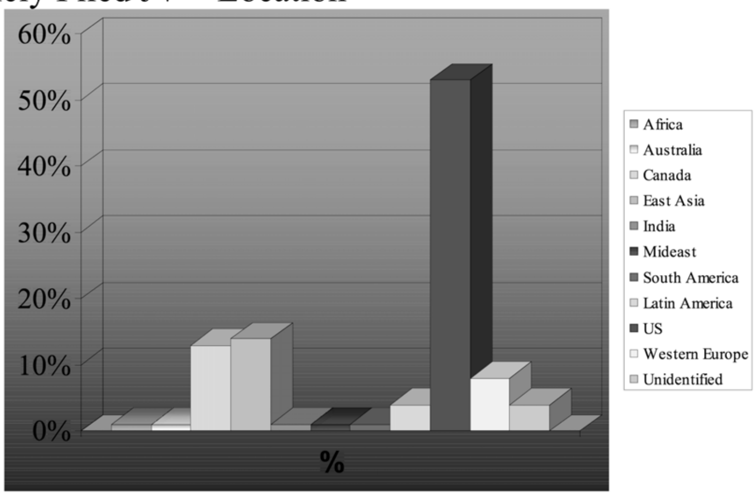
- Primary:
  - Eliminate competition
  - Money from someone else
  - Get technology
  - Market access
  - Get around foreign or domestic regulatory roadblocks
  - Acceptance into a culture and market
  - Test the waters
- Secondary
  - Share costs
    - Auto joint ventures
  - Develop industry standards (computers, auto makers)

Note: Underlying agreements used to generate this chart and the following charts in this presentation, together with additional statistics, are available by contacting cmccrohon@burkelaw.com.

Publicly Filed JV – By Industry



Publicly Filed JV – Location



The Business:
JV Risks

JV Anthropology: Unstated Norms

- The Hope:
  - everybody wins, many fish in the sea
- The reality:
  - Hold up, prisoners dilemma –
  - The zero-sum game
  - The harmony of the first turn versus the battle of the last turn
  - Suspicion, temptation, conflict of interest

JV and Exponential Complexity

- Not the straightforward two-party transaction
- Multiple parties
  - Competing interests, timetables, resources, cultures
- Multiple venues
  - Regulated versus unregulated; domestic versus foreign; for-profit versus association
- Multiple transactions
  - Licenses, partnerships, distributorships, leases

Business Risks Checklist

Similar Business	Non-Competitor	JV Experience	Equal Leverage/ Importance	Culture Similar
New Business	Direct Competitor	New to JVs	Unequal Leverage/ Importance	Culture Dissimilar

Bottom Line Checklist to Manage Risk – Approaching the Transaction

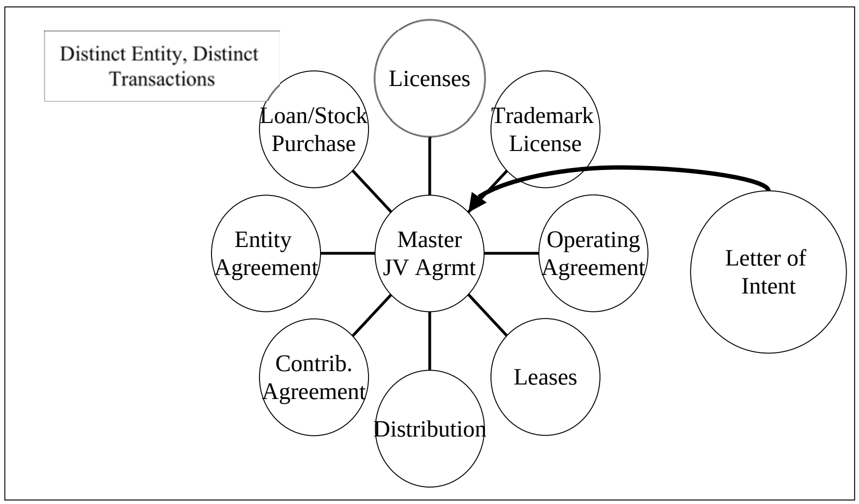
- Integrate with the business team
- Prepare for the political minefield and higher profile
- Prepare client for longer, more expensive transaction
- Avoid short cuts in documents – JVs are not for the short form
- Diplomacy triumphs over confrontation – beware the bullying opponent

Bottom Line Checklist to Manage Risk – Legal Foundation

- Intense documentation and oversight
- Simplify transaction
  - Fees can be enormous
- Divide into separate transactions
- Counsel business leaders regarding instability of joint ventures
- Manage like a complex acquisition
- If NOT similar to JV elements above, JV structure and strategy may the WRONG approach

The Contracts

Classical JV Documents: Hub and Spoke



Checklist: Master JV Agreement

- Overview
- Outline of new entity
- Outline of non-competition obligations
  - Products and services delivered
  - Territory of operation
- Outline of future entity agreements
  - Percentage ownership
  - Listing by country/industry
- Capital contributions
- Conditions to closing
- Appointment of initial directors
- Contributions to be made
- The “no joint venture” joint venture disclaimers

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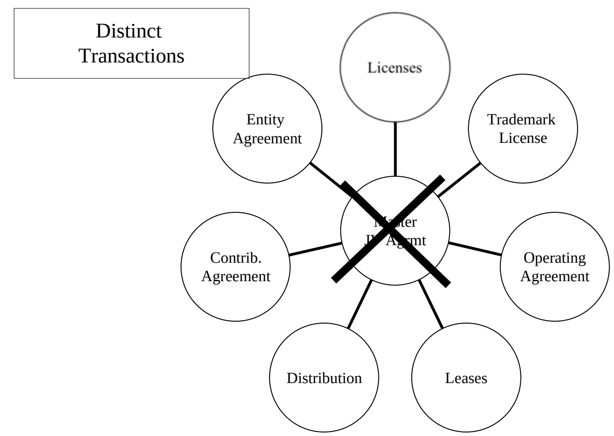
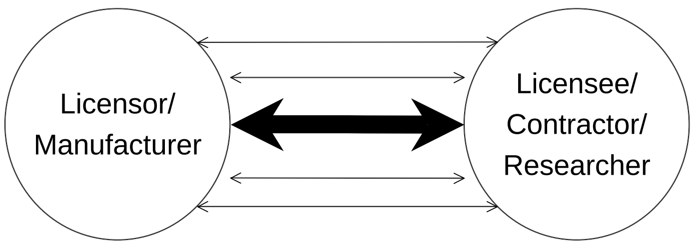
Deals Within Deals

- IP Licensing
- Investment/venture financing
- Distribution/marketing
- Bulk purchasing/services/outsourcing

JV Structure: Spokes without the Hub



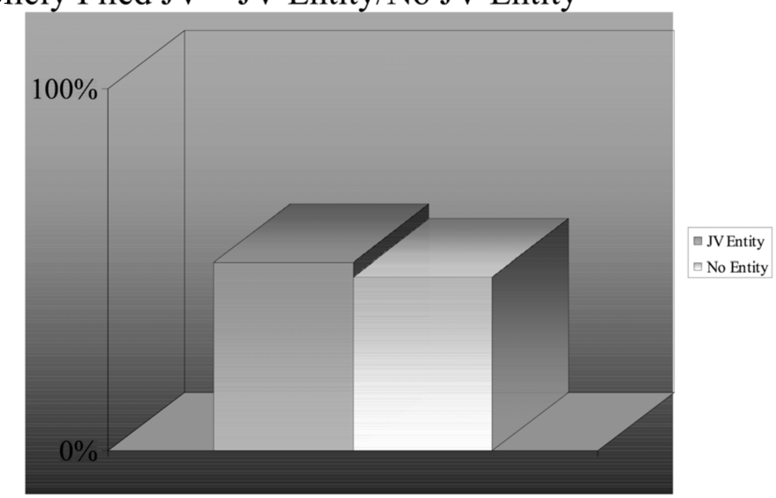
Hidden JV: Cooperation in a Two-Party Agreement



One Main Agreement

Multiple ancillary agreements sharing revenue, creating joint control

Publicly Filed JV – JV Entity/No JV Entity



Industry Defines the Agreement, Like Sports Defines the Athlete

- R&D joint ventures
  - Pharmaceuticals
  - Biotechnology
- Distribution alliances
  - Software
  - Manufacturing
  - Services
- Manufacturing joint ventures
  - Automotive
  - Consumer/business durables (copy machines, refrigerators)
- Strategic marriages
  - Cross-border JV's
  - Real estate joint ventures

Bottom Line Checklist to Manage Risk – Documenting JVs

- Benchmark terms for efficiency and fairness
  - Law firm and investment bank studies
- Avoid one-size-fits all JV forms: look for industry specific precedent
- Question authority: if no separate entity being created, why the "JV" label?
- Create detailed letter of intent, if possible
- Segmenting deals enables customized deals and reduces risk of minor issues causing major problems

Preliminary Deal Management

Checklist: Due Diligence Risks

- Insider transactions
- Inflated asset values/questionable accounts receivable
- Litigation
- Title to intellectual property
- Employment agreements/change of control
- High risk/high cost employees
  - Beware of foreign laws regarding accepting employees who are VERY expensive to terminate
- Concealing true reason for alliance interest: Desperate for someone with cash

Checklists: JV Manipulation

- Rent
  - Beware of assignment of the worst space: outskirts of town
- Salaries
- Allocation of overhead
- Transfer pricing
  - Beware of inflated prices, especially at a distance
- Assignment of staff

Bottom Line Checklist to Manage Risk – Legal Foundations

- Conduct thorough due diligence
- Include robust representations regarding assts, operations
- Use other professionals – auditors, local professionals
- Schedule identifying assets contributed, services to be provided
  - Which machines
  - The backdoor termination: shifting workers to shift termination costs

Legal Building Block: Antitrust

U.S. Antitrust Basics

- Sherman Act §1: Restrictions on agreements in restraint of trade
- Sherman Act, §2: Violation if monopolizes or attempts to monopolize
- Clayton Act, §7: no monopolistic mergers; Hart-Scott-Rodino filings
- Federal Trade Commission Act, §5: administrative proceedings for violations National Coop. Research Act:
- Exemptions for certain R&D

  joint ventures
- EU Directives
- FTC and Department of Justice Guidelines

The Blurriness of Antitrust

- DOJ/FTC Guidelines apply the rule of reason to agreements involving cooperative ventures among competitors, "safety zones"
- Per Se Violations
  - Agreements to set prices
  - Agreements to horizontally allocate markets
  - Agreements to reduce output joint ventures
- Broad fact intensive analysis
  - Market, history of industry
  - Compensating efficiencies
  - Look at agreement, impact and purpose
  - Market power of participants
  - Barriers to entry/essential facilities
  - Profit margins

Antitrust Guidelines from the FTC/DOJ

- Exemptions for certain R&D joint ventures
- "Safety zones":
  - Safety zone: 20% rule
  - For R&D JV, At least three other firms competing
- Mitigating factor: efficiency enhancing

Bottom-line Checklist to Manage Risk - Antitrust

- Review market share (HHI>1800; Δ >100) (10% rule)
- Document rational business purpose other than limiting competition
  - Memorialize discussions of efficiency enhancements
- Avoid competition restrictions masquerading as JVs
  - Price fixing, input reduction, market allocation
  - Patent pools with no R&D rationale
- Consult anti-trust counsel if any red flags present

Legal Building Block:
Taxes

Framework for Tax Review

- Character of property contributed, liabilities assumed
  - Current versus non-current assets
  - Recourse/non-recourse debt
- Appetite for tax losses, minimizing repatriated earnings
- Appearing abusive:
  - Churning assets to avoid gain
  - Hiding income

Checklist for Tax Review

- Contribution traps:
  - Control of entity following contribution
  - Built-in gains; preserving basis; step-up opportunities
  - Partnership versus corporate rules
  - Services associated with contributions
  - Treatment of foreign corporations
  - Treatment of classes of assets: a/r, IP, tangible assets
- Operating traps:
  - Flow-through entities/arbitraging different systems
  - Transfer pricing to inter-company income
  - Changes in accounting system
  - Failure to use tax-minimizing holding companies
  - Failure to equalize inside and outside basis

Checklist for Tax Review

- Dividend traps:
  - Equity buyouts
  - Distributions of appreciated property
- Liquidation traps:
  - Tax-free split-ups and spin offs
  - Distribution of appreciated property

Legal Building Block:
Intellectual Property

IP Tricks and Traps

- Fruit of the IP tree: Ownership of JV IP
  - Reverts to contributor of original IP
  - Joint ownership
  - Entity ownership
- International IP protections: backdoor disclosure abroad
- Rights to enforce patents
- Risks in bankruptcy: trustee terminates license, or assigns IP
- Losing control in foreign jurisdictions

Bottom Line Checklist to Manage Risk

- License back to shareholders
- Restrict geographic and scope restrictions in license back
- Limit disclosure of information to JV entity or partner
- Avoid joint ownership
- Distribute to owners upon liquidation based on:
  - Source of IP
  - Source of funds to create IP
  - Party more likely to use IP

Legal Building Block:
Secondary Matters

Bottom-line Checklist for Risk Management – Secondary Legal Areas

- The Disciplines
  - Employment
  - Foreign Corrupt Practices
  - Customs
  - Export Controls
  - Creditors Rights
  - Local laws
- Highly dependent on:
  - JV industry
  - JV structure
  - JV country

The Contract:
Shareholder Rights

Theory of JV Governance

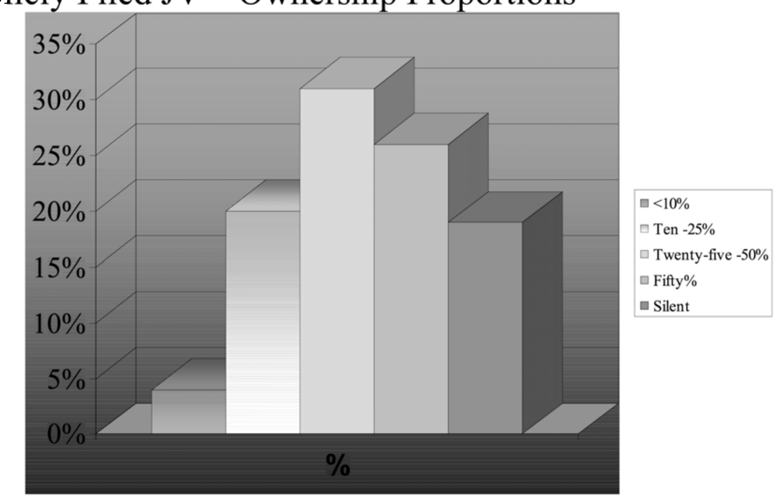
- Theory:
  - Fiduciary duty
    - Corporate opportunity – keep the best customers, IP, employees for the parent
    - Disclosure of information
    - Reduce conflict of interest
    - Loyalty to parent versus joint venture
  - Securities fraud claims
  - SEC/Sarbox enhanced reporting

Reality of JV Governance

- Relatively few JV fiduciary duty disputes
  - Fewer passive investors
  - Non-US laws can substantially differ
- Few securities fraud claims by partners
  - Usually conduct due diligence
- Embarrassment of such intense conflict
- Parties use contracts as governance mechanism

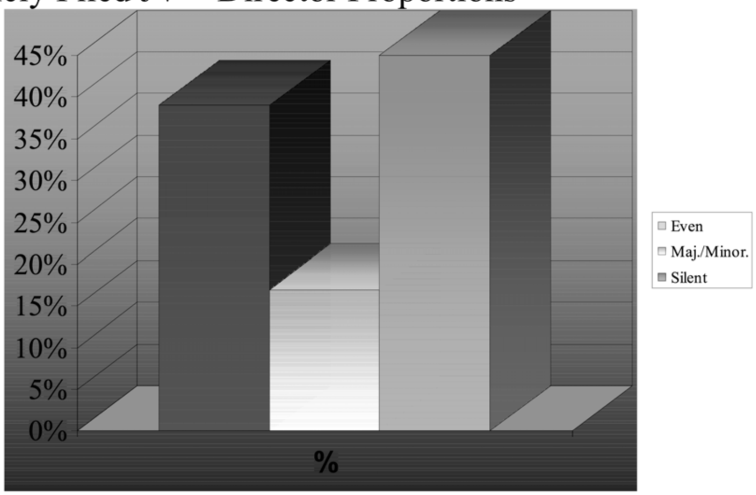
JV Data

Publicly Filed JV – Ownership Proportions



JV Data

Publicly Filed JV – Director Proportions



Bottom-line Checklist to Manage Risk – Veto Rights

- ***Significant and common events:***
  - ***Executive hires***
  - ***Significant spending***
  - ***Approval of business plan***
- Significant, but infrequent
  - Affiliate transactions
  - Corporate reorganization
  - Selection of professional advisors
  - Borrowing, sales of equity
  - Disposal of assets
  - Capital contributions

Bottom-line Checklist to Manage Risk – Information Rights

- Financial reporting
- Approval of business plan
- Disclosure of significant events
- Continuing accuracy of asset contribution agreement representations and warranties

Bottom-line Checklist to Manage Risk – Capital Calls

- Establish threshold for calling capital (majority, supermajority, unanimous)
- Keep the repurchase and valuation formulas simple
  - JV funding simpler than sophisticated venture and private equity transactions
  - Rely on formulas, book value, contributed capital (unlike deference to fair market value in pure financing contexts)

Bottom-line Checklist to Manage Risk – Funding Penalties

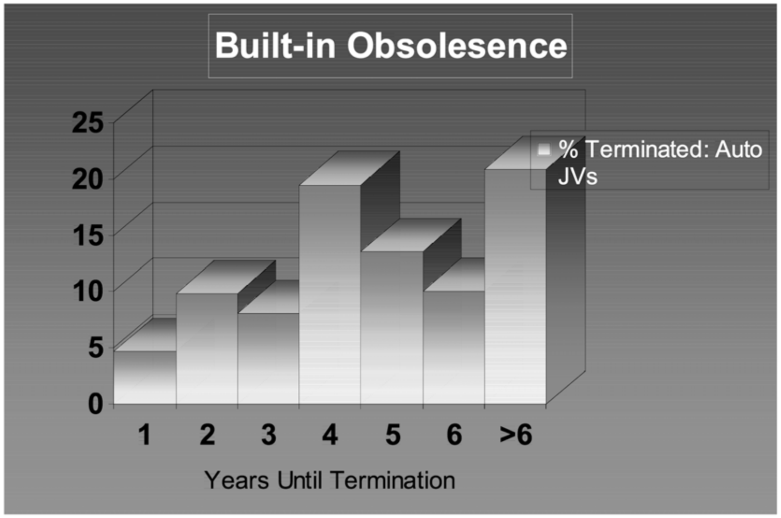
- Common and practical:
  - Straight dilution
  - Borrowing from partner providing funding
  - Preferred shares from partner providing funding
- Draconian and hence impractical:
  - Punitive dilution
  - Termination rights
  - Repurchase option
- Uncommon:
  - Loss of director, officer role
  - Reversion of IP rights to the other party
  - Release from exclusivity obligations

The Contract:
JV Termination

JVs & Hollywood Couples: The Break-up

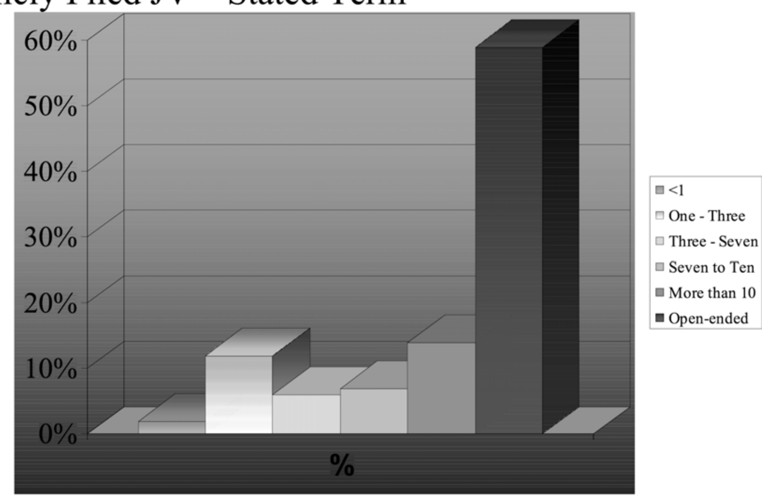
- Changing market
- Learning technology
- Learning markets, making friends
- Spoiled by success
- Changing fortunes of the partners

The Alliance Life Spans



JV Data

Publicly Filed JV – Stated Term



Checklist: Termination Triggers

- Highly sensitive:
  - Failure to achieve milestones
  - General defaults
- Common:
  - Failure to fund/contribute
  - Change of control
  - Breach of confidentiality/non-competition
  - Fixed time period
- Too little, too late:
  - Anti-trust judgments
  - Bankruptcy

Bottom-line Checklist to Manage Risk – Exit Methods

- Sale or purchase of partner interests
  - Punitive valuation
  - Valuation formula, premium applied
  - Book value
- Sale of the entire JV
- Liquidation of the JV

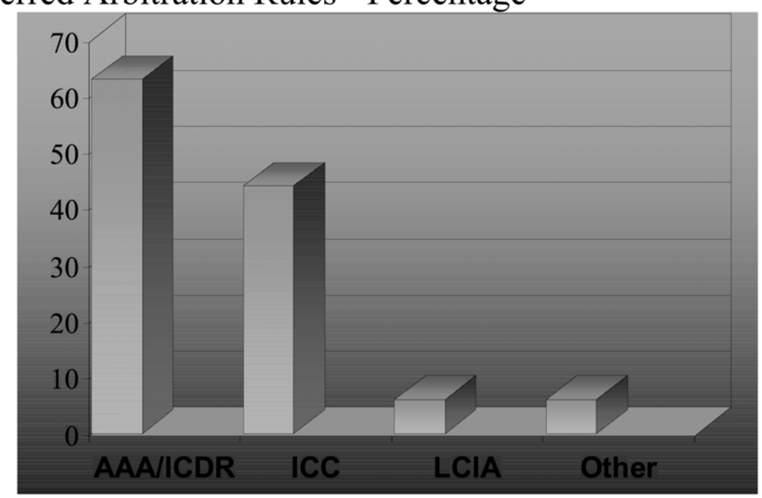
Dispute Resolution

Dispute Resolution Options

- Litigation
- Negotiation/Conciliation
- Mediation
- Mini-trial
- Arbitration

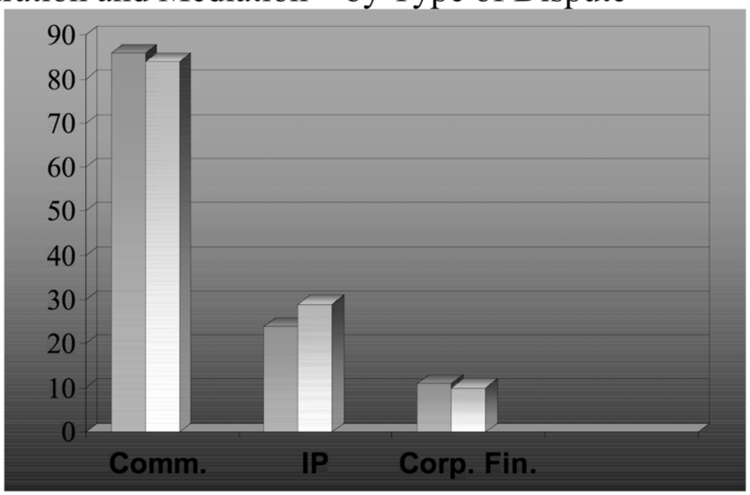
Dispute Resolution – the Data

Preferred Arbitration Rules - Percentage



Dispute Resolution – the Data

Arbitration and Mediation – by Type of Dispute



Arbitration - Pros

- Slightly faster
- Slightly cheaper
- Private
- Technically expert neutrals
- All parties more likely to accept than foreign court
- Sometimes more enforceable than local judgments
- Can tailor certain rules (language, law, limited procedure)

Arbitration - Cons

- Interim relief often delayed and complicated
- No legal precedent, if desired
- Cannot leverage superior resource in game of attrition
- Evidence gathering much more limited
- Difficult to consolidate multi-party disputes

Bottom-line Checklist to Manage Risk - Arbitration

- Quality of local courts
- Relative resources of the parties
- Importance of intellectual property
- Importance of extensive discovery
- Need for privacy

Bottom-line Checklist to Manage Risk – Primary Elements of Arbitration Clause

- First priority:
  - Agreement to arbitrate
  - Coverage of all disputes
  - Selection of arbitration institution
  - Location of arbitration
  - Language
  - Applicable Law
  - Number of arbitrators
  - Agreement that judgment may be entered
  - Attorneys fees

Bottom-line Checklist to Manage Risk – Secondary Elements of Arbitration Clause

- Secondary:
  - Nationality of arbitrators
  - Translation of document
  - Interpretation during hearing
  - Bilingual hearings
  - Legal qualification of arbitrators
  - Written proceedings
- Warning: Do not include too much detail (such as limits on discovery or motions); defer to set of acceptable arbitration rules
  - Leave this to the pre-hearing agreement

Bottom-line Checklist to Manage Risk – Secondary Elements of Arbitration Clause

- “Portfolio” of cases – many pending cases, the unpredictability of ADR mitigated (hence, large companies select ADR more frequently than microcap firms)
- Arbitration more common for international JVs
- Mediation, arbitration consistent with the JV imperative to preserve relationships
- Need to seize property, seek injunction

ADR Resources

- American Arbitration Association: adr.org
- International Chamber of Commerce: iccwbo.org
- UNCITRAL: un.or.at/uncitral
- London Court of International Arbitration:

lcia-arbitration.com

Sample Joint Venture Agreements:

JOINT VENTURE AGREEMENT

Joint Venture Agreement between USCo and EuroCo

This Joint Venture Agreement is entered into as of April 8, ____ (the EFFECTIVE DATE") between USCo and EuroCo.

RECITALS

A. WHEREAS the Investor is a _____ limited liability partnership which desires to incorporate and invest in a new _____ Company, referred to herein as "JVC" which will distribute the software and services of a software company in the Territory.

B. WHEREAS USCo is a software company which seeks expanded distribution of its software and its related services in the Territory.

C. WHEREAS the Investor, will incorporate the JVC, and the JVC will receive a license for the Territory from USCo to (i) resell USCo products, (ii) provide authorized maintenance, training and consulting services and (iii) manage new VARs and Resellers.

D. WHEREAS the Investor's responsibilities related to the JVC will include: (1) proper incorporation of the JVC (2) the provision of start-up and operating capital for the JVC, (3) appointing three appropriate and responsible individuals of the Advisory board of the JVC and (4) voting of stock shares of the JVC.

E. WHEREAS Investor and USCo have expressed a desire to work together to create the JVC which shall be governed by its Shareholder Agreement, its board, and the Exclusive Software Distribution Agreement and to have the JVC granted rights and privileges to distribute the software and services of USCo in the Territory.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 "DISTRIBUTION AGREEMENT" shall mean the Exclusive Distribution Agreement executed on April 8, ____ between USCo and JVC.

1.2 Intentionally left blank.

1.3 "JVC" shall mean the company which is incorporated by Investor pursuant to the terms and conditions of this Agreement.

1.4 "RULES OF PROCEDURE FOR THE ADVISORY BOARD" shall mean the Rules of Procedure for the Advisory Board of the JVC which are set out as Exhibit D hereto.

1.5 "SHAREHOLDERS' AGREEMENT" shall mean the Shareholders' Agreement of JVC which is set out as Exhibit C hereto.

1.6 "TERRITORY" shall mean those countries / accounts set out in the Distribution Agreement.

1.7 "USCO PRODUCT AND SERVICES" shall mean those products and services developed or licensed by USCo and provided by USCo from time to time and which are distributed by the JVC in the Territory pursuant to the Terms and Conditions of the Distribution Agreement.

1.8 "USCO VISITING DIRECTOR" shall be that person appointed by USCo that Investor shall establish as a visiting board member of the JVC Advisory Board. When used in this Agreement the term "approval of USCo's Visiting Director of the JVC's Advisory Board" or similar term shall mean the affirmative approval of the USCo Visiting Director and accordingly the failure of the USCo Visiting Director to attend or vote will preclude the required approval.

1.9 "COMPETITOR" shall mean a Data Mart and/or Data Warehouse company or company that sells Data Access and/or Data Movement tools such as but not limited to ___, ___, ___ and ___.

"INDIRECT COMPETITOR" shall mean any other software company providing Database tools or any other business competing with JVC for the same customers in Data Warehousing tools licensing transactions.

"NON-COMPETITOR COMPANY" shall mean any company which is not a "Competitor" or an "Indirect Competitor."

ARTICLE 2 FORMATION OF JVC

2.1 INCORPORATION Promptly after the Effective Date of this Agreement, the Investor shall cause the JVC to be incorporated in the form of a ______ or be incorporated by using an existing ______. In connection with the foregoing action the Investor shall cause the JVC to adopt the charter documents (______ Shareholders' Agreement and Rules of Procedure for the Advisory Board) which shall include but not be limited to the identity and voting rights of the Advisory Board and Shareholders of the JVC and which are substantially in the form of Exhibits D and E hereto.

2.2 FUNDING OF INITIAL CAPITALIZATION. The Investor agrees to provide sufficient funding up to a maximum of one and a half million Deutsche Marks (__ 1,500,000) over a three year period to enable JVC to hire personnel, obtain space and otherwise conduct its business. In no event shall Investor be required to increase its investment or have any other liability or responsibility to JVC other than the funding requirements in this section and as otherwise provided in this Agreement.

2.3 EXCEPTION. Investor shall not be required to meet its investment obligations and JVC shall not be required to meet its minimum royalty payment obligation if (i) USCo has materially defaulted in any of its obligations set out in this Agreement between the parties and such default is not cured within ten (10) days of Investor's written notice to USCo; or (ii) USCo's overall revenues, commencing on the Effective Date, and excluding European revenue do not grow by at least thirty (30) percent annually or (iii) USCo does not continue to make all reasonable commercial efforts in its pursuit of becoming a publicly traded entity.

2.4 FUNDING REQUIREMENTS.

(a) JVC shall carry all expenses related to the foundation/incorporation of JVC including but not limited to notary and legal fees. USCo shall carry all expenses related to the acquisition of JVC including, but not limited to notary and legal fees.

(b) The Investor expects that the above investment amount will be sufficient, however it shall have the right to invest more if necessary but shall not be obligated to do so.

(c) USCo shall have the right to lend funds in the form of subordinated loans to JVC if the Investor has reached its maximum limit.

(d) Apart from disbursements which are normally required in the ordinary course of business, during the first three (3) years of JVC's operation the approval of the Advisory Board of JVC and in particular the USCo Visiting Director shall be required prior to the Investor taking any money or other asset out of JVC in any form including but not limited to cash, profits or dividends. Without approval of the USCo Visiting Director, investor shall be entitled to withdrawal of amounts it has loaned to JVC.

(e) Any amounts lent by USCo shall bear prevailing market rates of interest and otherwise comply with all US laws.

2.5 STRUCTURE OF JVC

(a) The Advisory Board of JVC will have three Members of the Advisory Board, one of whom shall be nominated by USCo and two by the Investor. The Board will meet at least quarterly in person or by telephone with at least five (5) days advance written notice of all meetings.

(b) At the outset of the Agreement, one hundred percent of the shareholdings of the JVC will be owned by Investor, however the USCo Visiting Director shall have the right to approve or reject alternative ownership. Further, any transfer is subject to USCo's right of first refusal found elsewhere in this Agreement.

(c) Decisions of JVC for which the approval of USCo's appointed member of JVC's Advisory Board is required shall be set out in the Rules of Procedures, the Shareholders Agreement and in the Actions requiring Approval set out in Exhibits C, D and E hereto.

ARTICLE 3 MANAGEMENT OF THE JOINT VENTURE COMPANY

3.1 MANAGEMENT GENERALLY. The JVC shall be managed and administered in accordance with the applicable provisions of its charter documents. The JVC shall be managed in a manner consistent with prudent business practices.

3.2 INTENT. The parties will agree to guide JVC to achieve the objectives of USCo in the "Territory" and the desire by the Investor to achieve a substantial return from its efforts.

3.3 INVESTOR RESPONSIBILITY. The Investor shall use its best efforts as the sole shareholder of JVC to ensure that the General Manager of the JVC understands and works diligently to fulfill all of JVC's obligations under the Distribution Agreement between JVC and USCo which is dated April 8, ____.

3.4 The advisory board of USCo ______ will provide a person acceptable to USCo as General Manager of USCo ______.

ARTICLE 4 ALLOCATIONS, DISTRIBUTIONS AND OTHER FISCAL MATTERS

4.1 AUDITORS. The firm of Coopers & Lybrand is hereby designated as the initial Auditors for the JVC; Auditors shall not be changed without the approval of the USCo Visiting Director.

4.2 INFORMATION AND ACCESS. The JVC shall keep its accounting and Tax records on USCo's fiscal year (calendar year) basis and shall provide USCo with financial statements (to include a balance sheet, income statement, and statement of cash flows) no less frequently than within 21 days after the end of each calendar quarter. JVC shall also provide USCo with a personnel roster at such time, listing each employee and significant consultant of the JVC by name, position held and salary. USCo shall have the right at any time to inspect JVC's books records and facilities and to talk with the officers, Members of the Advisory Board, employees and consultants of the JVC.

4.3 LIMITATION ON LIABILITY. In the event of termination by either party in accordance with any of the provisions of this Agreement, neither party shall be liable to the other, because of such termination for compensation, reimbursement or investments, leases or commitments in connection with the business or goodwill of USCo or JVC. Termination shall not, however, relieve either party of obligations incurred prior to the termination.

4.4 Regardless of whether any remedy fails of its essential purpose, in no event will either party be liable to the other party for incidental, indirect, special or consequential damages, notwithstanding being aware of the possibility of such damages. Neither party's liability for any damages or claims shall exceed US $500,000 or __ 900,000 whichever amount is lower.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

Each party hereby severally represents and warrants to each other party as follows:

5.1 DUE ORGANIZATION AND EXISTENCE.

(a) In the case of the Investor, that it is a limited liability partnership duly organized, validly existing and in good standing under the laws of ______y.

In no event shall Investor be required to increase its investment or have any other liability or responsibility other than the investment and as otherwise provided in this Agreement.

(b) In the case of USCo, that it is a corporation duly organized and validly existing in accordance with the laws of California, USA.

5.2 QUALIFICATION. The parties acknowledge that each of them are duly qualified, licensed or registered to transact business and is in good standing under the laws of each jurisdiction in which the nature of its business or the location of its assets requires it to be so qualified.

5.3 POWER AND AUTHORITY. The parties warrant that each has all requisite power and authority to transact the business in which it is currently engaged or proposes to engage, to own or hold under lease its properties and assets, and to execute and deliver, and to perform its obligations under this Agreement.

5.4 NO CONFLICT. Neither the Agreement's execution and delivery of other documents contemplated hereunder, (a) requires or will require approval of its equity owners or the holders of any of its indebtedness or obligations, (b) contravenes or will contravene any law applicable to or binding upon it or any of its properties, (c) contravenes or will contravene any provision of its charter documents, (d) does or will contravene or result in a breach of or constitute a default under any instrument, indenture, agreement or other obligation to which it is a party or by which it or any of its assets may be bound, or (e) requires or will require the consent or approval of, the giving of notice to, the registration with, the recording or filing of any document with, or the taking of any other action by or in respect of, any governmental commission, authority or agency, or any other person or entity whether foreign or domestic the violation of which would have a material effect on the transaction contemplated herein.

5.5 EXECUTION, DELIVERY AND PERFORMANCE. Each party warrants that it has duly executed and delivered this Agreement, and this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

5.6 ABSENCE OF LITIGATION. Each party warrants that there are no actions, suits or proceedings pending or, to the best of its knowledge, threatened against or affecting it or any of its assets.

5.7 NO LIABILITIES OR OBLIGATIONS. Investor warrants that it has not incurred any liabilities or obligations on behalf of the JVC, other than liabilities or obligations required by ______ law.

5.8 NON-COMPETITION. During the first three years of the Agreement, JVC will not sell any products except the USCo Products and Services. During this three-year period, Investor and any of its companies where investor is the majority shareholder shall have the right to otherwise conduct their business, however in no event may Investor and its companies sell or otherwise promote the products of a Competitor or Indirect Competitor of USCo without USCo's prior written permission and if such permission is granted by USCo, Investor and its companies will be responsible for making sure that any affiliate who may be working with competitors will not receive any confidential information of USCo.

ARTICLE 6 ADDITIONAL COVENANTS AND AGREEMENTS

6.1 EXCLUSIVE DEALING. The parties shall work together exclusively to develop this venture. No party may unilaterally take any action or enter into any agreement granting any rights to or associated with this venture to any person or entity that is not a party hereto.

6.2 RESTRICTIONS ON TRANSFERABILITY OF EQUITY INTEREST IN JVC. Except for transfers or other dispositions to other wholly owned companies, Investor may not sell, assign, pledge or otherwise dispose of its equity interest in the JVC, in whole or in part, unless Investor (the "TRANSFERRING PARTY") has received a bona fide offer it is willing to accept for such interest (or part thereof), and Investor thereafter offers USCo (the "NON-TRANSFERRING PARTY") a right of first refusal to purchase such interest (or part thereof) (the "OFFERED INTEREST") at the same price and upon the same terms and conditions as the bona fide offer, in accordance with the following procedure:

(a) The Transferring Party shall provide notice to the Non-Transferring Party, which notice shall (i) state that the Transferring Party received a bona fide third party offer for the Offered Interest, (ii) state the price offered for the Offered Interest, on a per-share or other unitary basis, and (iii) describe the terms and conditions to which the bona fide offer is subject (the "OFFER NOTICE") and shall provide the Non-Transferring Party with any other information it reasonably requests regarding the Offer, or JVC.

(b) If the Non-Transferring Party elects to exercise its right of first refusal, notice of such election (an "ELECTION NOTICE") shall be given to the other party within sixty (60) days following the date on which the Office Notice was given. The closing of the purchase and sale transaction shall take place on the sixty (60th) day after expiration of the initial sixty day period. At the closing, the Transferring Party shall sell, and the Non-Transferring Party or Parties shall purchase, the Offered Interest at the price and upon the terms and conditions set forth in the Offer Notice. If the offer price is in other than cash, the Non-Transferring Party may elect to pay the consideration in fair market value in cash.

(c) If rights of first refusal are not timely exercised with respect to the entire Offered Interest, or are waived, the Transferring Party may thereafter dispose of the Offered Interest at a price equal to or greater, and upon terms and conditions equal to or more favorable to the Transferring Party, than those set forth in the Offer Notice. However, if the Offered Interest is not so disposed of within ninety (90) days after the date on which the Offer Notice was given, or if the Transferring Party elects to dispose of the Offered Interest at a lower price, or upon terms and conditions less favorable to the Transferring Party, than those set forth in the Offer Notice, then this Section 6 shall again become applicable to the Offered Interest.

(d) Notwithstanding anything to the contrary in this Section 6, as a condition precedent to any sale, assignment or other disposition of an equity interest in JVC, in whole or in part, the intended transferee of such interest shall become a party to this Agreement, and shall give the representations and warranties contained herein and be subject to all obligations herein including section 7. Additionally, under

no circumstances can any interest be transferred to a Direct or Indirect Competitor of USCo except as provided in Section 7.4.

(e) If the Transferring Party sells, assigns, pledges or otherwise disposes of any interest in JVC, whether in whole or in part, in violation of this Section 6, such disposition shall be null and void ab initio. Each party acknowledges that the restrictions on transferability set forth in this Section are of unique value to the other parties hereto, and that the payment of monetary damages could not adequately compensate the other parties for any breach of the obligations set forth in this Section. Accordingly, the rights of the parties set forth herein shall be specifically enforceable in accordance with their terms.

(f) Nothing herein shall limit USCo's Buy-Out Option under Article 7.

6.3 PUBLIC DISCLOSURE. No party shall make any public disclosure regarding confidential terms of this venture without the prior written consent of the other parties hereto, except as required by law, including the requirement of the United States Securities and Exchange Commission. Confidential terms shall include all of the terms and conditions of this Agreement, however the business relationship between the parties and JVC necessary to carry out distribution of products and other obligations under the Distribution and Trade mark Agreement shall not be confidential.

6.4 CONFIDENTIALITY. Each party shall keep confidential all information and documents received from the other parties in connection with the transactions contemplated hereby, and shall not disclose the same to any third party without the prior written consent of the party that might be affected thereby. The limitations set forth in this Section shall not apply to (a) information that is or becomes generally available to the public other than as a result of a disclosure by any person in breach of this Agreement, (b) information already in a party's possession without restriction on disclosure, (c) information that comes into a party's possession from a third party without restriction on disclosure, other than through a breach of an agreement with the original disclosing party, and (d) information the disclosure of which is compelled by force of law.

6.5 NAME CHANGE OF JVC. In accordance with Sections 13.3 and 13.6 of the Exclusive Software Distribution Agreement executed as of April 8, ____ between USCo and JVC, Investor as shareholder of JVC shall promptly pass the resolution required to effect the name change and shall use its best efforts to effect the legal name change of JVC.

ARTICLE 7 BUY OUT

7.1 In the event that USCo is sold, (the is, a controlling interest is sold to another firm that expects to operate USCo rather than an investment firm) by written notice the Investor can require USCo to purchase JVC at the Formula Price determined pursuant to section 7.3 herein within sixty (60) days following completion of the sale of USCo. USCo may elect to purchase JVC as further described in Section 7.2. The sale price shall be paid in cash or a combination of cash and stock of USCo, if stock is acceptable to Investor.

7.2 At any time, but not earlier than eight (8) months after the incorporation of JVC, USCo may elect to purchase JVC at the Formula Price determined below in cash, or a combination of cash and stock by giving written notice to Investor. If USCo elects to purchase JVC in exchange for stock, Investor may decide to have these shares directly transferred to its individual partners.

7.2.1 If USCo is privately held, the value of the shares issued in connection with any stock purchase shall be at the value declared by an independent party knowledgeable in business valuation acceptable to both parties as the fair market value on the date USCo provides notice of its desire to purchase JVC. USCo and the Investor shall share equally in the cost of the valuation. If USCo is a publicly reporting company, the share value shall be the average closing sales price (or closing bid, if no sales are reported) of USCo common stock for the three (3) business days prior as well as three (3) business days following the date on which written notice is provided by USCo for purchase of JVC.

7.2.2 In the case an SEC rule 144 transaction is applicable with respect to the shares, USCo shall fully support Investor's/the Partners' efforts in this transaction.

7.3 FORMULA PRICE:

7.3.1 In the event that the proposed Buy-out Date is on or before the last day of the first 12-month period of operation, the Purchase Price shall be equal to the amount of [*] dollars (US $[*]).

In the event that the proposed Buy-out Date is after the last day of the first 12-month period and on or before the last day of the second 12-month period of operation, the Purchase Price shall be equal to the higher amount of [*] dollars (US $[*]) or the Gross Product Revenues multiplied by the applicable monthly Revenue Multiple, less (i) accounts receivable due greater than sixty (60) days after the Buy-out Date and (ii) lease commitments or contingent liabilities, with the exception of office space lease commitments, extending more than six (6) months past the Buy-out Date. Accounts receivable that are recovered within 120 days after the Buy-Out Date shall be added back to the Purchase Price. Gross Product Revenues shall equal the aggregate licensing, sale revenues from the distribution of USCo products recognized

by Company during the twelve-month period immediately preceding the Buy-out Date in accordance with the revenue recognition policy of USCo then in effect. The month during which USCo gives notice of the desired acquisition shall be accounted for in the buy-out formula.

In the event that the proposed Buy-out Date is after the last day of the second 12-month period of operation, the Purchase Price shall equal the Gross Product Revenues multiplied by the applicable monthly Revenue multiple.

7.3.2 REVENUE MULTIPLE: The Revenue Multiple in the first month of the second 12-month period shall be equal to [*] ([*]) and shall be increased each month by [*] until it reaches [*] ([*]).

7.3.3 Investor shall have the right to withdraw dividends after the third year without change to the buyout price, provided that such dividends do not exceed the amount invested in common equity pursuant to Section 2.2 (withdrawals exceeding this amount to be deducted from the buyout price). JVC's retained earnings for the current or prior fiscal years shall be included in the buy-out price and in that respect. Investor waives its rights to revert to Article 102 BGB (______ Civil Code). Exhibit B attached hereto provides an example of the buyout amounts based on the projections set out in Exhibit A.

7.3.4 During the thirty (30) day period following the notice of acquisition, USCo shall have the right to audit the buy-out price and operations of JVC prior to closing of the buy-out. The audit may be conducted by USCo or a third party accounting firm hired by USCo. The Investor shall correct all errors noted by USCo through recalculation of the buy-out price. In the event there are material errors or accounting deficiencies, USCo may delay the closing pending rectification of the material problems noted.

7.3.5 Notwithstanding the foregoing, the purchase price to be paid by USCo shall be reduced by any liabilities or obligations to which the JVC is subject at the time of the buyout that are not necessary to fulfill its intended business objectives.

7.3.6 The amount to be paid by USCo shall be calculated (and if applicable, paid) in US dollars. For the purpose of calculating the buy-out price, the monthly revenues of the JVC shall be converted at the respective average monthly exchange rates of ______ Marks/Euros to US dollars in accordance with US GAAP.

7.3.7 Subject to 7.3.4, USCo shall promptly complete the acquisition following resolution of all audit or other issues disclosed, but in no event shall the acquisition be completed later than ninety (90) days after USCo's written notice to buy JVC.

7.4 Intentionally left blank

7.5 REGISTRATION RIGHTS. If USCo issues shares of common stock or securities convertible into common stock to Investor in the future pursuant to this Agreement, USCo shall give Investor mutually agreed-upon registration rights related to that common stock.

7.6 The rights to be granted to USCo in this Section 7 can be exercised also by a nominee named by USCo, whereby such nominee shall be a USCo controlled company.

ARTICLE 8 GOVERNING LAW AND DISPUTE RESOLUTION

8.1 GOVERNING LAW. The rights and obligations of the parties under this Agreement shall not be governed by the U.N. Convention on Contracts for the International Sales of Goods; rather such rights and obligations shall be governed and construed under the laws of the State of California, without reference to conflict of laws and principles. The jurisdiction of the courts of _____y is expressly excluded to the maximum extent permitted by law.

8.2 ARBITRATION. In the event of any dispute, controversy or claim arising out of or relating to this Agreement, or to the breach or termination hereof (a "DISPUTE"), the parties agree to resolve the same as follows:

(a) The parties to the Dispute shall initially attempt to resolve it through consultations and negotiations.

(b) If the Dispute has not been resolved amicably within thirty (30) days after any party provides notice thereof, unless the parties agree otherwise, the Dispute shall be resolved by final and binding arbitration in Zurich, Switzerland, in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL"), as in effect on the date of this Agreement. The language to be used in the arbitration proceeding shall be English. The International Chamber of Commerce shall serve as the appointing authority. The arbitrators shall render a written award stating the reasons for the decision. An arbitration award or decision may be entered by any court of competent jurisdiction, or application may be made to such a court for judicial acceptance of the award or decision and any appropriate order, including enforcement.

(c) Each of the parties hereto consents to the submission of any Dispute for settlement by final and binding arbitration in accordance with paragraph (b) above. Such consent shall satisfy the requirements for an "agreement in writing" pursuant to Article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards, done at New York on June 10, 1958.

(d) Each of the parties hereby undertakes to carry out without delay the provisions of any arbitration award or decision.

ARTICLE 9 TERM AND TERMINATION

9.1 TERM. This Agreement runs concurrently with, and will terminate automatically with the termination of the Distribution Agreement, unless terminated earlier under the provisions of this Section 9.

9.2 RESIGNATION OF USCO VISITING DIRECTOR. After three years JVC may request the resignation of the USCo nominated Visiting Director from JVC's board provided that USCo continues to be promptly supplied with all relevant sales and distribution information related to the continuing distribution of USCo products and services by JVC.

9.3 INVESTOR'S RIGHT TO TERMINATE FOR CAUSE. The Investor shall have the right to terminate the Agreement (i) if following investment totaling __ 1,500,000 in JVC, it shall not have created a self-sustaining entity, which cannot operate on its own without additional contribution of outside funds, and it (and or USCo) is not willing to advance additional funds to continue operations or (ii) other material default of a provision of this Agreement by USCo, however if the default is such that it reasonably may be cured within 60 days and USCo restores its performance, the Agreement shall continue.

9.4.1 EFFECT OF TERMINATION PURSUANT TO SECTION 9.3: Following termination under section 9.3 (which shall also act to terminate the Distribution Agreement), the Investor shall have the right to liquidate JVC, however if it does so, it shall allow USCo to hire JVC employees directly or through a third party to provide support to existing customers.

9.4.2 In no event will the Investor be required to maintain the corporate existence of JVC following termination.

9.5 TERMINATION FOR INSOLVENCY. Either party may terminate the Agreement in the event of JVC's or USCo's dissolution and liquidation or inability financially to reasonably complete its responsibilities under the Distribution Agreement.

9.6 SALE OF EQUITY INTEREST IN JVC. These may be an allowed sale of JVC that will not invalidate this agreement, if USCo has passed on its right of first refusal. Either party may terminate this Agreement in the event the other party ceases to hold a direct or indirect equity interest in the JVC.

9.7 Intentionally left blank.

9.8 SURVIVAL. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 2.4(a), 3.3, 5, 6.3, 6.4, 7.5, 8, 9, and 10 shall remain in full force and effect upon termination of this Agreement.

ARTICLE 10 MISCELLANEOUS

10.1 NOTICES. Any and all notices and other communications that are required or permitted to be given pursuant to this Agreement shall be in writing, and shall be deemed given (a) upon personal delivery, or (b) upon the sender's receipt of electronic confirmation of transmission, if sent by telex or facsimile, or (c) upon 2 business days after delivery to a recognized courier, fees prepaid. The parties designate the following addresses for the foregoing legal effects:

To Investor:

To USCo:

The parties may amend the above-mentioned data by notice to all other parties, as provided in this Section.

10.2 SURVIVAL OF REPRESENTATIONS AND WARRANTIES. The representations and warranties of the parties contained in this Agreement or in any certificate delivered pursuant hereto shall survive the termination of this Agreement and shall remain in full force and effect.

10.3 SPECIAL, INDIRECT, PUNITIVE AND CONSEQUENTIAL DAMAGES. No party shall be liable to any other party in contract, tort or otherwise (including negligence, warranty or strict liability) for any incidental, special, indirect, punitive or consequential damages arising out of or in connection with this Agreement or the transactions contemplated hereby.

10.4 BINDING EFFECT; NONASSIGNABILITY. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns; provided, however, that neither this Agreement, nor any rights or obligations hereunder, may be assigned, delegated or otherwise conveyed by any party hereto without the prior written consent of the other parties. The sale of USCo shall not be considered a violation of this section. The sale of JVC following USCo's passing on the right of first refusal shall not be considered a violation of this section.

10.5 NO THIRD-PARTY BENEFICIARIES. This Agreement is for the sole benefit of, and may be enforced only by, the parties hereto. Neither the JVC nor any

other third party claiming through either of them or otherwise shall have standing to enforce any provision of this Agreement.

10.6 SEVERABILITY. If one of the provisions of this Agreement should be, or become invalid, or if this Agreement should have an omission, this shall not affect the validity of the remaining provisions. In such an event, the parties are obliged to assist in the incorporation of provisions which form the closest possible economic equivalent to that which the parties would have agreed if they had been aware of the invalidity or if they had considered the point.

10.7 AMEN____. No modification of this Agreement shall be binding unless made in writing and duly executed by the parties.

10.8 WAIVER. The waiver by any party of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or any other provision hereof.

10.9 RELATIONSHIP OF PARTIES. The relationship of the parties under this Agreement shall be solely that of independent contractors. The parties retain complete control over and responsibility for their own respective operations and employees. Nothing contained in this Agreement shall be construed to make any party a partner, agent, employee or other representative of any other party, or to otherwise authorize any party to represent or bind any other party.

10.10 COUNTERPARTS. This Agreement may be executed by one or more of the parties hereto in any number of separate counterparts, each of which when so executed shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

10.11 ENTIRE AGREEMENT. This Agreement, including its Exhibits, which form an integral part hereof, constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes any and all prior negotiations, correspondence, understandings and agreements relating to the subject matter hereof, including without limitation the Letter of Intent signed by the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

"USCO"

____

"INVESTOR"

EXHIBIT A
USCO _____ -- BUSINESS PROJECTIONS

EXHIBIT B
BUY-OUT EXAMPLE

Date of written Notice:	
12-month Trailing Revenue:	US$[*]
(-- July ____ - including June 1999)	
Monthly Revenue Multiplier:	[*]
Buy-out Price:	US$[*]
Minus Accounts Receivable due greater than 60 days:	US$[*]
Minus contingent liabilities or lease commitments extending more than	
6 months past the Buy-out Date:	US$0
Plus recovered Accounts Receivable within 120 days after the Buy-out Date:	US$[*]
TOTAL BUY-OUT PRICE:	US$[*]

ARTICLES OF INCORPORATION

Articles of Incorporation of Joint Venture Company

SECTION 1
COMPANY NAME AND REGISTERED OFFICE

(1) The name of the company shall be Joint Venture Company.

(2) The company's registered office shall be in ____.

SECTION 2
PURPOSE OF THE ENTERPRISE

(1) The purpose of the enterprise is to produce and distribute software of all kinds; also to offer consulting and technical services such as installation, maintenance, and training. Further it manages and administers its own assets.

(2) Within these limits the company is authorized to perform all business activities and steps that appear necessary or expedient to achieve the purpose of the company, such as creating branch offices domestically and abroad.

(3) In particular, the company may acquire or obtain participating interests in enterprises with the same or similar purposes.

SECTION 3
FISCAL YEAR AND DURATION

(1) The company existence is not limited to a certain length of time.

(2) The company's fiscal year shall coincide with the calendar year.

SECTION 4
SHARE CAPITAL AND COMPANY SHARES

(1) The company's share capital is __ 50,000 (fifty thousand ______ marks).

(2) Fully paid shares of a shareholder may be consolidated into a uniform share through resolution of the shareholders.

(3) It is hereby precluded that further payments above and beyond the initial capital contribution should be required.

SECTION 5
REPRESENTATION

(1) The company shall have one or more general manager (___). If only one general manager has been appointed, then he shall represent the company alone. If more than one general manager has been appointed, then the company shall be jointly represented by two general managers or a general manager and an executive vested with a power of commercial representation under ______ law (___).

(2) Any general manager may be authorized through a shareholders' resolution to represent the company without restriction when performing legal transactions with himself in his own name or as representative of a third party.

(3) Any general manager may be empowered through a shareholders' resolution to represent the company alone in case several general managers have been appointed.

SECTION 6
RESOLUTIONS OF THE SHAREHOLDERS' MEETING

(1) Resolutions of the shareholders' meeting shall be adopted by simple majority unless a larger majority or unanimity is required by law or these articles of incorporation.

(2) Each __ 100 (one hundred ______ marks) in a share give one vote.

(3) Resolutions of the shareholders' meeting may be challenged through legal action only within a period of one month after being adopted.

(4) Shareholders' resolutions may also be adopted in writing or by telephone or telefax or electronic mail without holding a shareholders' meeting unless another method is required by law and insofar as all shareholders approve of the method. Resolutions adopted by telephone must be recorded in writing immediately.

(5) A shareholder shall also be entitled to vote in matters concerning him directly. This does not apply to resolutions concerning formal approval of his actions, release from a liability, initiation or settlement of a legal dispute against him, calling in his company share, or transfer of same to the shareholders or to third parties.

SECTION 7
ACTIONS REQUIRING APPROVAL

Internally, the general managers must obtain the approval of the shareholders for legal transactions designated as requiring approval by the shareholders' meeting.

SECTION 8

ADVISORY BOARD

(1) The shareholders' meeting may resolve to create an advisory board. The number of its members should always be uneven. Members of the advisory board may also be persons who are not shareholders.

(2) The advisory board shall be responsible for matters assigned to it by the shareholders' meeting. It shall adopt resolutions by simple majority unless the rules of procedure require another method in an individual instance.

SECTION 9
CALLING IN COMPANY SHARES

It is permissible to call in shares of the company with the consent of the affected shareholder.

SECTION 10
PROHIBITION FROM COMPETITION

The shareholders are not subject to any competitive clause. General Managers can be released of any competitive clause through a shareholders' resolution.

SECTION 11
NOTICES

To the extent public notices are required by law, they shall appear in the___ .

SECTION 12
MISCELLANEOUS PROVISIONS

(1) The provisions of the law regarding companies with limited liability shall apply as supplements to the present Shareholders' Agreement (Articles of Incorporation).

(2) Should any provision of this agreement be or become unenforceable or should the agreement contain a loophole, the legal validity of the remaining provisions shall remain unaffected thereby. In such cases the shareholders shall be obligated to replace the invalid arrangement with a valid one approximating as closely as possible the intended purpose of the invalid provision. The same applies by analogy if this agreement should contain loopholes.

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RULES OF PROCEDURE FOR THE ADVISORY BOARD

Rules of Procedure for the Advisory Board of
Joint Venture Company

SECTION 1. COMPOSITION OF THE ADVISORY BOARD AND SELECTION OF ITS MEMBERS

(1) The company shall have an Advisory Board consisting of three members.

(2) Members of the Advisory Board shall be appointed through resolution of the shareholders, one visiting member being nominated by USCo and the other two members being nominated from among the EuroCo shareholders. Directors and managerial employees or executives of the company or enterprises dependent on the company are ineligible for membership on the Advisory Board.

(3) The office of an Advisory Board member shall end upon closure of the shareholders' meeting that resolves on the approval of actions for the second fiscal year following the appointment, unless a shorter period of office is set at the time of such appointment. The fiscal year during which the appointment was made is not counted.

(4) Advisory Board members may be dismissed without statement of cause before expiration of their term of office through a shareholders' resolution. Any Advisory Board member may resign from office without statement of cause before expiration of his term of office through a written statement to the company. To do so, the member must notify the company in writing three months in advance.

(5) If an Advisory Board member leaves the Advisory Board prior to expiration of his term of office, then a new member must be elected to the Advisory Board without delay. Substitute appointments are for the retired member's remaining term of office.

SECTION 2. CHAIRMANSHIP

(1) The Advisory Board shall have a chairman appointed through resolution of the shareholders.

(2) The chairman represents the Advisory Board for issuing and receiving statements and declarations.

SECTION 3. RESPONSIBILITIES OF THE ADVISORY BOARD

50,000 in the fiscal year.

u) Concluding, modifying, and terminating license and cooperation agreements.

v) Initiating litigation for disputed values exceeding __ 50,000 individually.

w) Granting and revoking powers of commercial representation or other commercial authority.

x) Issuance of debt to finance accounts receivables up to eighty per cent (80%) of total accounts receivables and fixed assets up to one hundred per cent (100%) of total fixed assets (e.g. leasing contracts).

ADDITIONAL AGREEMENTS ACCOMPANYING THE JOINT VENTURE AGREEMENT AND THE EXCLUSIVE SOFTWARE DISTRIBUTION AGREEMENT

1. In order to accelerate and facilitate the start-up of USCo ______y, the Joint Venture Company as Joint Venture Company. Euroco and since its date of incorporation Joint Venture Company has not been active.

As soon as the required documentation has been received from USCo, Inc., the name of JV Co will be changed to USCo Technology ______.

2. Concerning Article 3.2. of the Exclusive Software Distribution Agreement, the 30-day period for the development of a business plan shall start on May 1, ____ since the General Manager of USCo ______y will not join the company before this date.

3. The Trade Mark License Agreement has been signed under the assumption that USCo will promptly complete the respective exhibits.

4. All Agreements were signed under the assumption that a previously discussed purchase of USCo stock for key employees of USCo ______y and EuroCo Partnership will be approved by the Board of USCo, Inc.

US Co

General Manager, JV Co.

EXCLUSIVE SOFTWARE DISTRIBUTION AGREEMENT

Exclusive Software Distribution Agreement between
USCo Technology, Inc. and Joint Venture Company

This Exclusive Software Distribution Agreement (the "AGREEMENT") is entered into effective as of ___ (the "EFFECTIVE DATE"), between USCo ("USCO") and Joint Venture Company ("DISTRIBUTOR").

RECITALS

A. USCo is the owner or authorized licensor of the Software described in Exhibit A hereto (as it may be amended in accordance with this Agreement).

B. Distributor is a company formed concurrently with the signing of this agreement that will hire sales, support and managerial personnel for the purposes of distribution of USCo Software products and provision of USCo services within the Territory.

C. The Parties agree to have Distributor distribute the USCo product and provide the USCo services in the Territory and Distributor will manage Sergeant's Existing Distributors in the Territory to the benefit of the Existing Distributors, Distributor and of USCo.

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS.

1.1. "ANNIVERSARY DATE" shall mean the day of the month in which the Software was shipped to an End-User, VAR or Reseller by Distributor and the same day in any subsequent year.

1.2. "APPLICATION" shall mean software programs which are deployed by a Licensee and which consist of one of USCo's software components.

1.3. "DOCUMENTATION" shall mean any manual(s) shipped by USCo with the Software and manuals made available through the Internet and on other electronic media.

1.4. "END USER" shall mean any third party which licenses Software in order to fulfill its own data processing needs.

1.5. "END USER LICENSE" shall mean a standard evaluation or run time license agreement, as the case may be, approved and accepted by USCo in accordance with this Agreement, pursuant to which End Users are granted the right to utilize

Software on terms substantially similar to those which are from time to time included on the then current USCo standard End-User License Agreements which are set out in Exhibit G, and provided that the language relating to the Grant of License and the related Definitions shall provide no more rights and are expressed as closely as reasonably possible in the applicable local language as that used by USCo in the relevant agreement.

1.6 Intentionally left blank.

1.7 "JOINT VENTURE AGREEMENT" shall mean the Agreement executed between USCo and EuroCo on April 8, ____.

1.8.1 "LICENSE(S)" shall mean an End-User License, a Reseller Agreement or a VAR License, as applicable.

1.8.2 "LICENSEE" shall mean any party which executes a License with Distributor.

1.9 "MAINTENANCE" shall mean telephone consultation during USCo's normal business hours, bug fixes, error corrections and work-arounds, as well as updates and new releases, if any, which are not separately priced, that USCo makes to the Software.

1.10 "MARKETING" shall mean all sales promotion activities by Distributor, and conducted by or for Distributor in the Territory.

1.11 "RESELLER" shall mean any reseller which markets Software for resale provided that this definition does not include VAR.

1.12 "RESELLER AGREEMENT" shall mean Distributor's Reseller agreements related to the Software. USCo shall approve the standard form of Distributor's Reseller Agreement prior to execution by any Reseller.

1.13 "REVENUE" shall mean revenue regularly recognized, net of discounts, and returns. The term "Revenue" may apply to USCo's Revenue or Distributor's revenue as the context requires.

1.14 "SOFTWARE" shall mean USCo's Software Modules set out in Exhibit A hereto.

1.15 "STRATEGIC PLANS" shall include but shall not be limited to those plans established by Distributor for the overall marketing distribution and sales direction of the Software and services in the Territory including but not limited to the provision of product maintenance, consulting and training services.

1.16 "TERRITORY" shall mean those countries set out in Exhibit B of this Agreement.

1.17 "VAR" shall mean a Value Added Reseller who has integrated or embedded USCo's product in its own product offering and who has executed a VAR Agreement.

1.18 "VAR LICENSE" shall mean Distributor's Standard VAR Agreements which contain terms substantially similar to those which are from time to time included on the then current USCo Standard VAR Agreements, which are set out as Exhibit H hereto, and provided that the language relating to the Grant of License and the related Definitions shall provide no more rights and are expressed as closely as reasonably possible in the applicable local language to those used by USCo.

1.19 "WHOLLY OWNED COMPANY(IES)" shall mean those companies which are controlled by Distributor and which are used by Distributor to fulfill Distributor's obligations under this Agreement. "Controlled shall mean that Distributor owns all of the shares of such company (nominal share holdings which may be required by local law are allowed) and is responsible for the day to day actions of the company.

1.20 All references in this Agreement to the "sale" of or "selling" of Software shall mean the sale of a license to use such Software. All references in the Agreement to the "purchase" of or "purchasing" of Software shall mean the purchase of a license to use such Software.

2. LICENSE TO DISTRIBUTOR.

2.1 GRANT OF EXCLUSIVE LICENSE FOR SOFTWARE. Subject to the terms and conditions of this Agreement, USCo hereby grants and Distributor accepts a royalty-bearing, exclusive, nontransferable, nonassignable, right and license to copy and distribute Licenses of the Software in the Territory during term of this Agreement. Distributor shall not engage in sales activities relating to the Software outside of the Territory and shall not seek customers, or maintain a branch or distribution facility outside of the Territory. Except as expressly permitted herein, Distributor shall not copy, distribute or sub-license the software except to the extent that such activities may not be restricted under applicable law.

2.2 Intentionally left blank.

2.3 SUB LICENSE TO VAR. Subject to the terms and conditions of this Agreement, USCo hereby grants and Distributor accepts a royalty-bearing, exclusive nontransferable, nonassignable right to sub license the right to license and distribute Software through VAR Agreements in the Territory provided that no VAR agreements granted pursuant to this section shall remain in effect for a period longer than five (5) years. Distributor may grant VAR Licenses which shall be effective for longer periods provided that USCo agrees in writing. In any case the VAR agreements have to include maintenance provisions from USCo.

2.4 SUB LICENSE TO RESELLERS. Subject to the terms and conditions of this Agreement, USCo hereby grants and Distributor accepts a royalty-bearing, exclusive nontransferable, nonassignable right to sub license the right to license and distribute Software through Reseller Agreements in the Territory. Resellers are explicitly not granted the right to copy any of the Software. Distributor shall ensure that Reseller shall not engage in active sales activities relating to the Software outside of the Territory and shall not seek customers outside of the Territory. Reseller Agreements granted pursuant to this section shall remain in effect for a period no longer than five (5) years from the Effective Date of this Agreement.

2.5 WHOLLY OWNED COMPANY. In order to fulfill its obligations under this Agreement, Distributor may create Wholly Owned Companies within the Territory provided that each Wholly Owned Company executes a written agreement with Distributor acceptable to USCo in its sole discretion pursuant to which Wholly Owned Company is subject to the terms and conditions of this Agreement and in no case shall a Wholly Owned Company receive greater rights than are granted to Distributor hereunder.

2.6 MAINTENANCE. USCo shall grant to Distributor the right to sell Software maintenance to end users of the Software provided that Distributor shall provide maintenance services in compliance with USCo guidelines for providing maintenance services. These guidelines are attached as Exhibit J hereto. A royalty will be paid to USCo for each maintenance contract which should be sold on a prepaid annual basis to end users. USCo will supply product updates, new versions, new releases and 2nd line technical support. Distributor will provide first line customer support to all customers in the Territory and all product distribution to End Users required under the maintenance contracts.

2.7 REPRODUCTION OF COPIES. Subject to the terms and conditions of the Agreement, Distributor may reproduce at no charge a reasonable quantity of Software to be used solely for Software marketing purposes by Distributor, Wholly Owned Companies or Resellers ("MARKETING COPIES") provided that Distributor shall keep accurate records of all copies made and such record shall be made available to USCo at USCo's reasonable request. Distributor, acting reasonably, will determine the number of Marketing Copies. Distributor shall ensure that Wholly Owned Companies and Resellers are not permitted to retain possession of Marketing Copies except pursuant to a written License agreement.

2.8 USCO'S RESERVED RIGHTS.

(a) CUSTOMERS OUTSIDE TERRITORY. Distributor shall not have exclusivity and shall receive no payment with respect to USCo's End User customers from locations outside the Territory that deploy Applications within the Territory or VARs from outside the Territory that sell proprietary end user applications that include USCo Software in the Territory. USCo shall supply to Distributor a list of multinational companies with which USCo conducts sales in the US or elsewhere such list may be updated at any time. Distributor shall have the right to solicit direct business from those divisions or subsidiaries of such companies that are located in the Territory, and the Split policy, as set out in section 5.4 of this Agreement will apply to situations of joint efforts.

(b) CHANGES IN SOFTWARE. USCo reserves the right, from time to time, in its sole discretion and without liability to Distributor, to add to or delete from Exhibit A the Software which Distributor is authorized to distribute. USCo agrees to give Distributor ninety (90) days notice prior to deleting Software from Exhibit A. USCo cannot delete from Exhibit A product, and shall also add any product which is directly or indirectly sold somewhere else, including but not limited to new Software releases.

(c) Notwithstanding anything to the contrary in this Agreement, USCo will not be treated as in breach of its exclusivity obligations in the event of Software sales from outside the Territory to inside the Territory, by multi-national companies, whose importation USCo is unable to preclude by reason of application of law or which any third party is entitled to make.

2.9 TITLE. Distributor acquires only the rights expressly granted in this Agreement. All rights not expressly granted herein are reserved by USCo. Nothing contained in this Agreement shall be construed as conferring upon Distributor, by implication, estoppel or otherwise, any license or other right except the license and rights expressly granted herein. The licenses granted herein are granted solely to Distributor, and not, by implication or otherwise, to any parent or affiliate of Licensee. Except to the extent the following activities may not be restricted under applicable law, Distributor shall not create derivative works of, disassemble, decompile or otherwise reverse-engineer the Software, and shall prohibit its end users, Resellers and VARs from doing the same. All right, title and interest in and to the Software and Documentation delivered to Distributor, and all intellectual property rights therein and related thereto, shall at all times remain the property of USCo or USCo's licensors.

2.10 INDEPENDENT CONTRACTORS.

Distributor's relationship with USCo during the terms of this Agreement will be that of an independent contractor. Distributor will not have, and will not represent that it has, any authority to bind USCo to assume or create any obligation, express or implied, to enter into any agreements, or to make any warranties or representation, on behalf of USCo or in USCo's name other than as expressly authorized herein. Additionally, nothing in this Agreement shall be construed to constitute the parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking. The parties acknowledge and agree that neither Distributor nor any Reseller is or will at any time be a "commercial agent" within the meaning of EC Council Directive of 18 December 1986 on the coordination of the laws of the Member States relating to self employed commercial agents of any related legislation.

3. DEVELOPMENT AND IMPLEMENTATION OF ANNUAL BUSINESS PLAN.

3.1 USCo and Distributor will develop an annual written business plan that sets forth: (1) the initial hiring of Distributor personnel in conformity with Exhibit C hereto; (2) selling and other revenue activity by Distributor in conformity with Exhibit D hereto; (3) marketing advertising and other promotion plans related to this agreement; (4) establish _____ based consulting and training services for the Software; (5) establish maintenance and technical support for the Software in the Territory; and (6) all other activities of Distributor contemplated by this Agreement.

3.2 The first annual business plan shall be finalized by the parties within thirty (30) days of the Effective Date of this Agreement and shall be incorporated herein as Exhibit D. The parties will meet during USCo's usual budget cycle to establish the annual business plans for subsequent years. Each annual business plan will take into account the projections set out in Exhibits C and D hereto. Distributor shall use its best efforts to fully implement the plans.

3.3 The Advisory Board of Distributor must approve every annual business plan before it is implemented as the requirement is set out in specific detail in Exhibit E of the Joint Venture Agreement.

4. BUSINESS OPERATION OF DISTRIBUTOR.

4.1 GENERAL MANAGER. The Distributor will provide a person acceptable to USCo as General Manager of Distributor.

4.2 AUTHORITY OF GENERAL MANAGER. The General Manager shall have the authority to make all general business operation decisions related to the day to day operations of Distributor.

4.3 STRATEGIC PLANS. During the first three (3) years of Distributor's operation the General Manager of Distributor shall review with USCo all Strategic Plans of Distributor. USCo shall assist with the Strategic Plans through suggestion and coordination with programs used in other parts of the world.

4.4 DISTRIBUTOR TO BE OPERATIONAL WITHIN 90 DAYS. The General Manager of Distributor shall use his best efforts to have Distributor in full operation (sales and support functions in place) within 90 days following the Effective Date of this Agreement.

4.5 USCO'S DUTIES AFTER INCORPORATION OF DISTRIBUTOR. USCo shall:

(a) turn over to Distributor all sales leads applicable to the Territory and thereafter all sales transactions for the Territory shall be quoted and invoiced by Distributor (or applicable VARs) to the end user customers, Resellers and VARs.

(b) USCo shall notify all Resellers, VARs and end user customers and prospects in the Territory of the changes in responsibility.

(c) USCo shall supply Distributor with a list of all current maintenance customers in the Territory. Distributor shall have the right to renew maintenance for such customers in the Territory.

(d) USCo and Distributor shall negotiate local support for such customers in the Territory during the remaining period of the maintenance contract or if negotiations fail, USCo may provide direct support.

4.6 USE OF INTERNATIONAL PRICE LIST. USCo recommends that Distributor uses USCo's International Price List as its basis for pricing under this Agreement for distribution of Software and Services pursuant to this Agreement. However, Distributor shall be absolutely free in defining its resale prices and shall in no event be bound to follow USCo's price recommendation. Prices may be translated into _____ Marks/Euros from time to time. USCo shall periodically consult with the General Manager as to the form and content of the International Price List.

4.7 DISCOUNTING AUTHORITY OF GENERAL MANAGER. While Distributor shall be absolutely free in deciding on whether and which discounts to grant to customers, USCo recommends that the General Manager of Distributor authorizes the same discounts from the list prices (as set forth in USCo's then current International List Prices) as are allowed to USCo's sales department in USCo's nonstandard pricing terms and conditions procedure (hereinafter the "Pricing Policy") which is attached as Exhibit F for strategic software licensing customers.

4.8 ACCESS TO USCO PRICING COMMITTEE. The General Manager may consult with USCo's pricing committee regarding the justification of larger discounts than are recommended under Section 4.7, and or other sales accommodation and to end users, on a case by case basis. USCo and Distributor agree to use their best efforts to ensure all requests for additional discounts or other pricing accommodations are promptly attended to. In those instances in which General Manager (in good faith) must act without first seeking discount advice under the Pricing Policy, USCo shall honor the discount actually provided. However in no event will USCo be obligated to honor such discount (and the royalty payment shall be so adjusted) if the discount provided exceeds two (2) times the allowable discount expressed in the Pricing Policy.

4.9 HIRING BY DISTRIBUTOR. Distributor shall provide resumes of Key Persons it plans to hire for review and approval by USCo. If USCo shall not have objected within four (4) business days to any proposed hire, then USCo shall be deemed to have accepted the candidate. In order that USCo may assist in the hiring of all sales, technical and consulting personnel, Distributor may at its option send candidates at its expense to the US for interview. Any expenses of USCo personnel assisting the hiring process either in the US or _____y will be paid by USCo. For the purposes of this section the term "Key Persons" shall mean all sales, systems engineer and marketing staff.

4.10 STAFFING LEVELS. Distributor and USCo have agreed on a plan regarding the appropriate staffing levels in order to sell and offer the related services in the Territory. This staffing plan is set out in Exhibit C hereto and should serve as a guideline only.

4.11 ASSESSMENT OF DISTRIBUTOR EMPLOYEES. USCo shall participate in the ongoing assessment of all employees of Distributor. USCo may provide written comment to the General Manager of Distributor indicating that a particular employee(s) is/are not performing employee's job in a manner acceptable to USCo. Distributor shall take active steps to remedy all such situations identified by USCo either through raising the employee's level of performance or termination.

4.12 WRITTEN ASSESSMENTS. Distributor shall provide to the USCo member of Distributor's Advisory Board, on going written assessments at three (3) month intervals for employees identified by USCo as non-performing.

4.13 USCO TO KEEP DISTRIBUTOR INFORMED OF PLANS. USCo will keep the Management of Distributor fully informed of developments within USCo and trends that it sees in the US and other world markets (including USCo business plan). Once USCo is public, no information should be provided to Distributor which could lead to insider knowledge.

4.14 ATTENDANCE AT USCO MEETINGS. Distributor's General Manager will be allowed to participate in all major and relevant USCo meetings concerning trends, markets, products and strategy like a General Manager of a USCo subsidiary participating in USCo's General Manager meetings. Distributor may be excluded from any meeting if, in the sole discretion of the President of USCo it would be inappropriate for a representative of Distributor to attend.

4.15 DISTRIBUTOR TO PROVIDE SALES AND MARKET INFORMATION TO USCO. Distributor will promptly provide similar information to USCo. Samples of all marketing and advertising materials prepared by one party will be promptly provided to the other with rights to use such materials to further jointly the sales of USCo products.

4.16 PROVISION OF QUARTERLY FINANCIAL REPORTS. Distributor will provide USCo a quarterly financial report of its operations including but not limited to its balance sheet and income statement prepared in accordance with generally accepted accounting principles (USA), and a personnel roster by name, position held and location with new hires and termination's identified, and Distributor will keep its books on a calendar-year basis.

4.17 PROVISION OF REVENUE PROCEDURES TO DISTRIBUTOR. USCo will provide to Distributor copies of its accounting and revenue recognition procedures and Distributor will comply with these procedures to the extent that it is able under _____ law. This provision also applies to section 4.16 of this Agreement.

4.18 ANNUAL AUDIT OF DISTRIBUTOR. At its expense, Distributor will have an annual audit by Coopers & Lybrand results of which will be promptly supplied to USCo.

4.19 PROVISION OF MONTHLY SALES REPORTS. Distributor shall also promptly provide to USCo monthly sales and a three month forecast of expected orders, including identification of the top five revenue potential projects, for USCo products and services in a USCo approved format.

4.20 MARKET AND SALES STRATEGY. Distributor shall utilize the general market and sales strategies used by USCo. This strategy currently has a focus on consumer goods industries, telecommunications and the financial services industry, however the strategy may change from time to time and is not an exclusive strategy.

4.21 COMPLIANCE WITH U.S. FOREIGN CORRUPT PRACTICES ACT. The Distributor shall be managed so as to observe the following requirements in all transactions: (a) No action shall be taken by or on behalf of the Distributor which violates any applicable law or regulation of the United States, or any country in the Territory; (b) no expenditure for other than lawful purposes shall be made by or on behalf of the Distributor; and (c) no payments shall be made and nothing of value shall be given to government officials by the Distributor or any of their respective agents, except such payments as are required by law and made to such officials in other than their individual capacities; or (d) otherwise taken any action that would constitute a violation of the U.S. Foreign Corrupt Practices Act, 15 U.S.C. Section 78dd-1 et seq.

5. COMPENSATION.

5.1 (i) Royalties to USCo shall be calculated based on amounts invoiced to end users (exclusive of freight charges and any applicable sales and consumption taxes (VAT)), and Royalties shall be adjusted for credit invoices, using the following royalty rates:

Software Products [*]%
Maintenance fees [*]%

(ii) Royalties to USCo resulting from Licenses sold through VARs and Resellers in Territory shall amount to 40% of the then current International Price List for Product Licenses. In case of special VAR and Reseller deals where the General Manager uses the rules of Article 4.8. for pricing and discounting purposes, different royalties may be negotiated with USCo.

5.2 Compensation to USCo shall not be due from Distributor for evaluations limited to thirty (30) days or less or copies used for marketing or demonstration purposes only.

5.3 USCo reserves the right to change its International list prices with ninety (90) days prior written notice to Distributor.

5.4 SPLITS -- "VAR Deals" and deals as defined in 2.8(a) where both USCo and Distributor are directly involved under this Agreement are subject to revenue or royalty splits as agreed to by the General Manager of Distributor and USCo's applicable Vice President responsible for European Sales. If no agreement is made as provided above, then the split will be resolved by the President of USCo following consultation with Distributor. Splits may be appropriate in instances where USCo and Distributor must each provide sales and marketing support to a customer in order to finalize an agreement. Such an agreement would be one, which is closed outside the Territory, but Distributor is involved in the transaction in the territory.

5.5 NO COMPENSATION FROM OUTSIDE THE TERRITORY. Distributor will receive no compensation with respect to VAR's from outside of the Territory that market Applications in the Territory except that USCo or Distributor may contract with a VAR that (i) intends to market globally and (ii) is a major factor in its industry. In such instance, it is necessary and desirable that USCo and Distributor cooperate to facilitate the entry of the VAR into respective markets and assist such VAR in its marketing efforts. In such instances, either USCo or Distributor may receive a portion of the royalty paid by the VAR, or some other negotiated payment for the services provided in the respective territory. The amount of royalty or fee shall be negotiated as provided for in Section 5.4 "Splits."

5.6 PAYMENT. Distributor will pay royalties bi-monthly, by wire transfer within seven (7) days following the 15th and the end of each month, based on payments received during the month from customers, Resellers, and VARs. Payments to USCo shall be due and payable from Distributor once Distributor has received payment from a customer. Distributor shall make all commercial efforts to ensure the credit worthiness of each end user Licensed pursuant to this Agreement and Distributor shall use all efforts to ensure that each customer pays all fees owed to Distributor according to Distributor's invoice terms. Distributor shall prepare and remit at the end of each month an Aged Receivable document.

5.7 REPORTS. Along with each payment as described in section 5.6, Distributor shall supply a report with copies of customer invoices, (if possible with the name and location of the customer, and products sold) and a calculation of the royalty due for the invoice.

5.8 MAINTENANCE. Distributor shall pay to USCo the amounts set out in section 5.1 of this Agreement for Maintenance provided to End Users. Payment for Maintenance shall be made yearly in advance, and, unless Maintenance is canceled by Distributor, USCo or End-User, at least thirty days before each subsequent Anniversary Date. Distributor shall pay for Maintenance as provided in Section 5.6. USCo policies require that maintenance be purchased at the inception of a License for extension of product warranties and that back maintenance is required for reinstatement of customers that have let their maintenance contracts lapse.

5.9 TRAINING AND CONSULTING. USCo shall grant to Distributor rights to provide USCo training courses with Distributor's own personnel to End Users; and Distributor shall have the right to provide Distributor's USCo trained consultants to assist customers with use of the Software Products. Such training and consulting shall meet USCo's quality standards. Distributor shall pay the reasonable travel and living expenses for any USCo consultants or agents brought from the US to the Territory. For extended visits, over two weeks, USCo will invoice Distributor for a daily rate approximating the compensation and benefits of the USCo consultant or agent for the period involved.

5.10 REPORTING. Distributor agrees to provide USCo with a monthly sales report in format and media reasonably requested by USCo and also meeting Distributor's needs, which details if possible purchase order numbers, quantity of each type of Software licensed during the month (including copies distributed by Distributor to Reseller, End User orders delivered by Resellers, End-User orders delivered by Distributor, and Marketing Copies made), machine class, unit and extended price to USCo the buyers' names and addresses and Reseller numbers (if any), and any other related information reasonable requested by USCo. This report shall be forwarded to USCo within fifteen (15) days of the close of each calendar month. In addition, Distributor shall ensure that Resellers provide similar such reports to Distributor and that the information contained in such Reseller reports is accurately reflected in Distributor's report to USCo. If Distributor orders Software directly from USCo such information shall be supplied on the order.

5.11 AUDIT. Distributor agrees to allow an independent auditor to review Distributor's books and records related to the activities described in this Agreement in order to determine the accuracy of the reports and agrees to require Resellers to allow a similar independent auditor review. The independent auditor will be chosen by USCo and approved by Distributor, whose approval shall not be unreasonably withheld. The review will be paid by USCo. The reviews occur at mutually agreeable times during normal business hours and will not occur more frequently than one time per year. The independent auditor shall be instructed to keep all information learned strictly confidential.

5.12 WITHHOLDING TAXES. All payments by Distributor shall be made free and clear of, and without reduction for, any withholding taxes. Any such taxes arising in Territory which are otherwise imposed on payments to USCo shall be the sole responsibility of Distributor.

6. RESELLER AND END USER SERVICE.

6.1 PRODUCT SUPPORT. Distributor shall provide customer support consistent with industry custom for all Software distributed hereunder. Distributor shall maintain on site staff support personnel sufficiently knowledgeable with respect to the Software to answer Existing Distributor, Wholly Owned Company, Reseller, End User and other customer questions regarding the use and operation of Software.

6.2 DISTRIBUTOR MAINTENANCE SUPPORT. Distributor shall ensure that all Reseller or End User questions regarding the use or operation of Software marketed by Distributor are initially addressed to and answered by Distributor. Any Reseller or End-User service questions resulting from Distributor's sales to Resellers or End-Users shall be referred by USCo back to Distributor.

6.3 USCO SUPPORT TO DISTRIBUTOR. USCo shall provide telephone consultation to Distributor with respect to any Reseller/End-User questions which Distributor cannot adequately answer. Distributor shall not represent to any third party that USCo is available to answer questions from any Reseller, End-User or other customer directly. To allow Distributor to offer proper support as USCo for severity 1 defects as defined in Exhibit I Distributor shall have access to USCo support. USCo shall make maintenance support available to Distributor on a 24-hour basis.

6.4 TRAINING. On the request of Distributor, USCo will provide training for a mutually agreed number of Distributor's technical employees at no charge by sending them to USCo Training Classes in the US. USCo Training Classes specifically requested by Distributor in the Territory will be charged to Distributor at mutually agreed cost.

7. WARRANTY.

7.1 USCo warrants to Distributor that each individual Software product for which Maintenance fees have been paid will substantially perform the functions described in the documentation provided by USCo for as long a period as to enable Distributor to grant its customers the legally required warranty (six months in ______y at the time of signing this Agreement) so long as such Software product shall have been properly shipped and not tampered with by Distributor. If USCo finds a material deviation in Software performance during the period, as Distributor's sole and exclusive remedy, USCo will replace, modify, or issue a refund for the Software, at USCo's option, provided it is within the law, so that it performs substantially in accordance with the documentation.

7.2 Other than as stated in this section 7, there is no representation or warranty or condition, express or implied, as to any matter whatsoever, including without limitation, the condition of software, its merchantability or fitness for a particular purpose.

8. ADDITIONAL OBLIGATIONS OF USCO.

8.1 HARMONY OF OPERATIONS. USCo will provide to Distributor such policies and procedures as are necessary to synchronize operations, so that to the End User customer, Distributor would appear to be a separate company, however closely aligned with USCo.

8.2 CONSULTATION TO DISTRIBUTOR. USCo will work closely with and provide consultation to Distributor management through telephone meetings or other appropriate manner of communication.

8.3 USCO COORDINATOR. USCo agrees to appoint one person as the designated coordinator between Distributor and USCo. USCo will be responsible for ensuring that this employee will be knowledgeable in USCo's sales and marketing procedures.

8.4 USCO STAFF AT DISTRIBUTOR SITE. USCo will provide to Distributor persons with technical and sales knowledge to support Distributor in the Territory during start-up phase with relevant direct expenses split equally between USCo and

Distributor. The purpose of the supplied person is to "jump start" operations of Distributor.

8.5 ISO 9001. USCo will make its best effort to gain ISO 9001 registration within 12 months of the Effective Date of this Agreement.

8.6 RESPONSE TO INQUIRIES. USCo shall promptly respond to all inquiries from Distributor concerning matters pertaining to this Agreement.

8.7 NEW RELEASES. USCo shall promptly inform Distributor of new releases of Software.

8.8 OTHER SOFTWARE PRODUCTS. USCo shall offer to Distributor product distribution rights in the Territory for all other products distributed directly or indirectly by USCo in accordance with Exhibit A.

8.9 PRODUCT ANNOUNCEMENTS. USCo shall use its best efforts to not make or distribute product announcements related to the Software directly to End Users in the Territory unless coordinated with Distributor.

8.10 PRODUCT RELEASE PLANS. USCo shall use its best efforts to give Distributor reasonable notice of plans for future software products which USCo intends to release for distribution during the term of this Agreement. USCo will provide to Distributor monthly product release schedules and Quarterly product planning schedules.

8.11 CUSTOMER INFORMATION. USCo will transmit to Distributor the names and addresses of prospective customers in the Territory from whom USCo receives inquiries regarding the Software.

8.12 MARKETING AND TECHNICAL INFORMATION. At Distributor's request, USCo will either loan, or sell at USCo's cost, to Distributor marketing and technical information concerning the Software, as well as catalogs and other sales aids, all in the English language, for the use of Distributor in marketing and selling to end users.

8.13 USCO AND DISTRIBUTOR TO COOPERATE IN MARKETING ANNOUNCEMENTS. USCo shall make all reasonable efforts to consult and cooperate with Distributor with respect to the timing and content of all marketing, PR, and other announcements which may have an effect in the Territory.

8.14 USCO OBLIGATION TO GO TO TERRITORY. USCo employees shall not be required to come to the Territory to support sales/marketing activities. To the extent that both parties feel that such a visit is in the best interest of Distributor,

Distributor will pay the reasonable travel and living expenses of the requested USCo Employee. For extended visits, over two weeks, USCo will invoice Distributor for a daily rate approximating the compensation and benefits of the individual for the period involved. In the case of Split deals as described at section 5.4 hereof, travel and compensation costs will generally be considered in the split of revenue to each party. In the case of support issues defined as "severity 1 and 2" in USCo's Maintenance And Technical Support document set out as Exhibit J hereto, and for which the services of a USCo Employee are imperative, USCo shall pay the relevant expenses.

9. ADDITIONAL OBLIGATIONS OF DISTRIBUTOR.

The following are additional obligations to be undertaken by the Distributor at the Distributor's sole expense:

9.1 MANUFACTURE OF PRODUCTS AND TRAINING MATERIAL. Distributor will manufacture all Software and training materials to be distributed in accordance with the Methods and Standard of Quality set out in Exhibit K hereto in the Territory pursuant to this Agreement and deliver such products to End Users. USCo will supply masters of tapes, disks and documentation as are required for Distributor to meet its responsibilities under this section. Distributor shall be allowed to buy from USCo all Software media, documentation and training materials which USCo makes commercially available at USCo's cost.

9.2 ENFORCEMENT OF INTELLECTUAL PROPERTY. Distributor will use its best efforts to protect USCo's Intellectual Property rights in the Software in the Territory, including but not limited to thorough use of Non-Disclosure agreements and proper contract administration of the software license agreements, and Distributor shall promptly report to USCo any infringement of such rights of which Distributor becomes aware; provided, however, that USCo reserves the sole and exclusive right at its discretion to assert claims against third parties for infringement or misappropriation of its Intellectual Property Rights in the Software in the Territory. "Intellectual Property Rights" shall mean patent right, copyright right (including, but not limited to, rights in software, audiovisual works and moral rights), trade secret rights, trade mark rights and any other intellectual property rights recognized by the law of each applicable jurisdiction.

9.3 MARKETING AND PR EFFORTS. Distributor will use its best efforts to vigorously and aggressively market and sell the Software within the Territory and to satisfy those reasonable criteria and policies with respect to Distributor's obligations under this Agreement developed and announced and communicated in writing to Distributor by USCo from time to time. Distributor will provide USCo sales forecast and pipeline information monthly and as requested by USCo. Distributor will develop and implement effective marketing programs to assist in the sale of the Software including those agreed upon in annual business plans or otherwise between the parties.

9.4 USCO SALES MEETINGS. Distributor shall attend USCo's scheduled Sales meetings which are scheduled to occur at least annually. In addition, business review meetings should be held between the General Manager of Distributor and the USCo Coordinator once in a quarter.

9.5 STAFF TRAINING. Distributor agrees to provide its staff and Resellers with adequate training regarding the use and operation of the Software, and to also provide its staff and Resellers with regular training regarding updates of the Software.

9.6 FINANCES. Distributor shall maintain working capital sufficient, to allow Distributor to perform fully and faithfully its obligations under this Agreement. Distributor shall devote sufficient financial resources and technically qualified sales and service personnel to the Software to fulfill its responsibilities under this Agreement.

9.7 STANDARD OF BUSINESS PRACTICES. Distributor shall establish and maintain, and shall cause its Resellers, employees and agents to establish and maintain a high standard of ethical business practices in connection with the distribution of Software within the Territory, including, without limitation, all applicable laws and regulations. Distributors shall follow such applicable sales policies as are established by USCo from time to time.

9.8 INTELLECTUAL PROPERTY RIGHTS REGISTRATIONS AND GOVERNMENT APPROVALS. Distributor shall promptly notify USCo in writing of, and shall assist USCo with any registrations of filings required to obtain all needed copyright, trademark or other intellectual property rights protection, in USCo's name, for the Software within the Territory, and to obtain any necessary government approvals with respect to this Agreement. Distributor agrees to promptly register this Agreement, after notifying USCo if the laws or regulation of any country in the Territory require its registration for any purpose with any governmental agency or instrumentality.

9.9 NO COMPETING PRODUCTS. During the first three years of the Agreement, Distributor will not sell any products, for use in the Territory, except the Software or software provided by USCo which is later made available under this Agreement. After three years, Distributor shall be free to sell and service products of any manufacturer including those products that could compete with USCo products provided that Distributor is otherwise in compliance with the terms of this Agreement.

10. INDEMNIFICATION.

10.1 USCo will defend at its expense any action brought against Distributor to the extent it is based on a claim that the Software or any part thereof, when used within the scope of this Agreement, infringes a patent or copyright and USCo will pay any settlements and any costs, damages and attorney's fees finally awarded against Distributor in such action which are attributable to such claim; provided that the foregoing obligation will be subject to Distributor notifying USCo promptly in writing of the claim, giving USCo the exclusive control of the defense and settlement thereof, and providing all reasonable assistance in connection therewith.

10.2 Notwithstanding the above, USCo shall have no liability for any claim of infringement of a patent or copyright based on: (i) use of a superseded or altered release of the Software or portion thereof if such infringement would have been avoided by the use of a current unaltered release of the Software which USCo provides to Distributor, or (ii) the combination, operation or use of the Software furnished under this Agreement with products or data not furnished by USCo if such infringement would have been avoided by the use of the Software without such products or data.

10.3 In the event that the use of the Software becomes or in USCo's reasonable opinion is likely to become the subject of a claim of infringement of patent or copyright rights, it is USCo's option to remedy the situation by: a) procuring the continuing right to use the Software as contemplated or b) replacing or modifying the Software such that use is no longer an infringement or c) terminating the License and refunding the fees paid by Distributor to USCo but prorated over a thirty six (36) month period, to the extent that Distributor is obligated to refund such fees to its customers.

10.4 The foregoing states the entire liability and obligation of USCo with respect to infringement or claims of infringement of any patent, copyright, trade secret, or any other proprietary right.

11. EXPORT ADMINISTRATION.

11.1 If the Software is to be used or distributed outside of the United States, Distributor agrees to comply fully with all relevant regulations of the United States Department of Commerce and with the United States Export Administration Act to assure that the Software is not exported in violation of United States Law. Distributor agrees that neither the Software nor any other technical data nor the direct product thereof is intended to be used for any purpose prohibited by the Act or regulations promulgated thereunder, including, without limitation, nuclear proliferation or chemical/biological weapons or missiles.

12. MAINTENANCE.

12.1 Distributor shall be solely responsible for maintenance for its own customers.

12.2 DISTRIBUTOR CONTACT. Distributor shall appoint one person as the principal Maintenance Contact Point for the communication of bugs and errors to USCo and for the receipt of bug and error fixes, work-arounds and updates, if any. Additionally, Distributor shall appoint another person as a back-up to the principal contact point.

12.3 USCO CONTACT. USCo shall appoint one person as the principal Maintenance Contact Point for the receipt of bugs and errors from Distributor and for the communication to Distributor of bug and error fixes, work-arounds and updates, if any. Additionally, USCo shall appoint another person as a back-up to the principal contact point.

12.4 MAINTENANCE AVAILABILITY. Maintenance is available only for the most recent version of the Software and the preceding version for no longer than 12 months after the current version becomes generally available. USCo shall ensure that Maintenance is available for the period mandated by local law in the Territory and Distributor shall use its best efforts to inform USCo of any local laws which may affect USCo pursuant to this section.

13. TERMINATION/DEFAULT.

13.1 TERM. This Agreement shall continue in force from the Effective Date without a specific termination date, unless terminated under the provisions of this Section 13. This Agreement shall survive the termination of the Joint Venture Agreement executed as of April 8, ____ between USCo and EuroCo , unless the provision of said Joint Venture Agreement contemplate that this Agreement shall automatically and immediately terminate.

13.2 DISTRIBUTOR'S RIGHT TO TERMINATE: The Distributor shall have the right to terminate the Agreement

13.2.a) for Cause:

(i) if USCo shall have defaulted in a material way in its obligations to provide and support its Software; or

(ii) if USCo has became unable to meet its requirements under this Agreement due to financial insolvency; or

(iii) other material default of a material provision of the Agreement.

Notwithstanding the foregoing, if Distributor desires to terminate pursuant to this section, then Distributor shall give written notice to USCo that if the breach is not cured within sixty (60) days this Agreement will be terminated. If Distributor gives such notice and the breach is not cured during the sixty day period, then this Agreement will terminate.

13.2.b) Furthermore, Distributor shall have the right to terminate this Agreement upon twelve months notice following the fourth year of the agreement.

13.3. EFFECT OF TERMINATION PURSUANT TO SECTION 13.2. Following termination under 13.2., Distributor shall change its name and procedures to eliminate all reference to USCo and shall retain the right to continue to support maintenance contracts with end users and otherwise provide support.

13.4. USCO'S RIGHT TO TERMINATE.

13.4a) for Cause:

USCo shall have the right to terminate Distributor's exclusive distribution rights if

(i) Distributor fails to meet its minimum royalty payment target in any given 12-month period as set out in Exhibit E and USCo and Distributor also were in material disagreement with respect to the operations or operating plan and have been unable to resolve such disagreement; or

USCo shall have the right to terminate the agreement if

(ii) a material number of customers or Resellers indicate substantial dissatisfaction with Distributor's service levels; or

(iii) Distributor is financially or otherwise unable or unwilling to meet its obligations under the Agreement; or (iv) other material default of a material provision of the Agreement; or

(v) failure to establish during the first twelve months of the Agreement, a training and consulting organization which functions pursuant to standards agreed upon by USCo and Distributor.

Notwithstanding the foregoing, if USCo desires to terminate pursuant to this section, then USCo shall give written notice to Distributor that if the breach is not cured within sixty (60) days this Agreement will be terminated. If USCo gives such notice and the breach is not cured during the sixty day period, then this Agreement will terminate.

13.4b) Furthermore, USCo shall have the right to terminate this Agreement upon twelve months notice following the fourth year of the agreement.

13.4.1 EFFECT OF TERMINATION UNDER 13.4 Following termination under section 13.4 above, the Distributor shall have the right to liquidate its business, however, if it does so, it shall allow USCo to hire Distributor's former employees directly or through a third party to provide support to existing customers.

13.4.2 Following termination under section 13.4 a) Sub sections (i), or (ii) if Distributor continues to operate, it shall change its name and procedures to eliminate reference to USCo and Distributor shall retain (a) the right to License USCo products in the Territory on a non-exclusive basis for a period of one year (renewable annually upon mutual agreement) and (b) provide support to existing and new customers through the expiration of applicable maintenance contracts.

13.5 Following termination under section 13.4 a) Sub sections (iii) or 13.4. b), all Distributor rights to License and support USCo products shall cease, however, USCo shall honor new purchase orders during a transition period which are prepaid or for which direct payment from a credit worthy customer can be arranged.

13.6 Following termination, under section 13.4 Sub-sections (iv) or (v) above, Distributor shall change its name as indicated above, and have the right to provide support to existing customers through the expiration of applicable maintenance contracts.

13.7 POST TERMINATION COOPERATION: Following terminate pursuant to sections 13.2 and 13.4 herein, the parties agree to cooperate with each other for an orderly transition of selling and service activity to established customers to USCo directly or to an authorized third party.

13.8 PROVISIONS OF UPDATES FOLLOWING TERMINATION. In the event of termination pursuant to this Section 13 and to enable USCo to continue to provide updates of the Software to End Users and Resellers, Distributor shall provide USCo within thirty (30) days of the effective date of termination with a complete customer list of all such End Users and Resellers, showing, at a minimum, names, addresses, type and amount of Software sold.

13.9 EFFECT OF TERMINATION. Unless provided otherwise above, on termination or expiration of this Agreement, Distributor shall (a) immediately cease using, copying and distributing the Software, and (b) certify to USCo within one month after termination that Distributor has destroyed or has returned the Software and all copies. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory and whether or not modified or merged into other materials.

13.10 ASSIGNMENT OF EXISTING AGREEMENTS. On termination or expiration of this Agreement Distributor shall immediately take all required actions to assign all end user, VAR and Reseller Agreements to USCo. Distributor agrees to ensure that all Wholly Owned Companies shall also assign all end user and VAR agreements related to the Software and Services to USCo.

13.11 RETURN OF MATERIALS. All trademarks, trade names, patents, copyrights, designs, drawings, formulas or other data, photographs and samples of every kind pertaining to the Software and to the Documentation which shall include any which may relate to any localization and which shall remain the property of USCo. Within thirty (30) days after the termination of this Agreement, Distributor shall prepare all tangible such items in its possession to be returned pursuant to section 13.9, for shipment, as USCo may direct, at USCo's expense. Distributor shall not make or retain any copies of any confidential items or information which may have been entrusted to it. Effective upon the termination of this Agreement, Distributor shall cease to use all trademarks, marks, and trade names of USCo.

13.12 LIMITATION ON LIABILITY. In the event of termination by either party in accordance with any of the provisions of this Agreement, neither party shall be liable to the other, because of such termination, for compensation, reimbursement or investments, leases or commitments in connection with the business or goodwill of USCo or Distributor. Termination shall not, however, relieve either party of obligations incurred prior to the termination.

13.12.1 LIMITATION OF LIABILITY -- TRADE MARKS: Distributor acknowledges that USCo is, and will remain the sole and exclusive owner of all goodwill associated with the trade marks of USCo. Distributor recognizes the value of the goodwill associated with the trade marks of USCo, and acknowledges that such value is owned by and belongs solely and exclusively to USCo. Distributor waives any right it may have to receive any compensation or reparations prior to, upon or following termination or expiration of this agreement under the law of the territory or otherwise.

13.13 CUSTOMER SUPPORT. Following termination of this Agreement, USCo and Distributor shall cooperate to make available to Resellers and End Users Software support and maintenance by USCo at USCo's then current standard rates.

Distributor agrees to pay such standard rates to USCo or, at Distributor's option, to reimburse to such Resellers for the duration of the stated maintenance and support period.

13.14 SURVIVAL OF TERMS. The provisions of Sections 5, 7, 9.5, 10, 11, 12, 13, 15 and 21 shall survive the termination of this Agreement for any reason.

14. LOCALIZATIONS.

14.1 USCo shall have the obligation (at its expense) to provide software localization/local language documentation whenever necessary based on USCo's English language documentation. Distributor shall (at its expense) provide local language marketing and promotional materials based on the English sales collateral used by USCo which USCo shall provide. Distributor shall also have the right (at its expense) to provide such localization/documentation and materials. All such materials shall meet USCo's published quality standards.

14.2 USCo shall retain ownership of all derivative works from its materials and Distributor shall promptly supply copies of any materials or documentation it prepares and executes any requested documents necessary to perfect USCo's ownership in the intellectual property.

14.3 If USCo elects to use local language Documentation or materials, USCo will obtain such materials from Distributor at Distributor's cost or for a nominal royalty if USCo has printed the material.

14.4 Distributor may suggest to USCo Software changes that it considers helpful in the Territory; however USCo shall be entirely responsible for the development and content of the Software.

14.5 USCo may agree with Distributor to provide technical and engineering support required to make localizations or new features to the Software on a case by case basis as commercial conditions warrant. However, in any case USCo shall be required to create localizations for every new software release.

14.6 USCo agrees to implement as soon as is commercially reasonable any localization or feature if License revenues in _____y will be materially impacted if USCo fails to do so. Due to SAP's significant market penetration in territory. USCo agrees to ensure access and query capabilities to SAP data within three months from the date of a final mutual decision on the best technical and business direction to achieve this goal, but in any case no later than October 1, ____.

15. NON-DISCLOSURE.

15.1 By virtue of this agreement, the parties may have access to information that is confidential to one another ("CONFIDENTIAL INFORMATION"). Confidential Information shall be limited to the Software and all written information clearly marked as confidential. Additionally, the terms and conditions of this Agreement are deemed to be Confidential Information.

15.2 A party's Confidential Information shall not include information which (a) is or becomes a part of the public domain through no act or omission of the other party; or (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; or (c) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (d) is independently developed by the other party.

15.3 The parties agree, both during the term of this Agreement and for a period of five (5) years after termination of the Agreement, to hold each other's Confidential Information in confidence. The parties agree not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any other purpose than the implementation of this Agreement. Each party agrees to take reasonable steps to ensure that Confidential Information is not disclosed, distributed or used by its employees or agents in breach of the provisions of this Agreement.

16. GOVERNING LAW, JURISDICTION, AND COMPLIANCE WITH LAWS.

16.1 The rights and obligations of the parties under this Agreement shall not be governed by the U.N. Convention on Contracts for the International Sales of Goods; rather such rights and obligations shall be governed and construed under the laws of the State of California, without reference to conflict of laws and principles. The jurisdiction of the courts of _____y is expressly excluded to the maximum extent permitted by law. Distributor acknowledges that its breach of this agreement may cause irreparable harm to USCo for which USCo may obtain injunctive relief.

16.2 IMPORT LICENSES, EXCHANGE CONTROLS, OTHER GOVERNMENTAL APPROVALS. Distributor represents and warrants that it shall, at its expense, obtain any and all import licenses and Territory governmental approvals that may be necessary to permit the license by USCo and Distributor of Software, comply with all registration requirements in the Territory, obtain such approvals from the banking and governmental authorities of the territory as may be necessary to guarantee payment of all amounts due hereunder to USCo in US dollars, and comply with any and all governmental laws, regulations, and orders that may be applicable to Distributor by reason of its execution of this agreement, including but not limited to any requirement to be registered as USCo's independent Distributor with any governmental authority, and including but not limited to any and all laws, regulations or orders that govern or affect the ordering, export, shipment, import, sale (including governmental procurement), delivery, or redelivery of the Software in the Territory.

16.3 LIABILITY OF USCO. The provisions of this Agreement under which the liability of USCo is excluded or limited shall not apply to the extent that such exclusions or limitations are declared illegal or void under the laws applicable in the countries in which Software is licensed hereunder, except to the extent such illegalities or invalidities are cured under the laws of such countries by the fact that the law of California governs this agreement.

17. ENTIRE AGREEMENT.

17.1 This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior agreements, discussions, and understandings between them. No modification of or amendment to the Agreement, nor any waiver of any rights under this Agreement shall be effective unless in writing signed by an officer of USCo and Distributor. The terms and conditions of this Agreement shall supersede the terms and conditions of Distributor's purchase order, if any.

18. NOTICES.

18.1 NOTICES. Any and all notices and other communications that are required or permitted to be given pursuant to this Agreement shall be in writing, and shall be deemed given (a) upon personal delivery, or (b) upon the sender's receipt of electronic confirmation of transmission, if sent by telex or facsimile, or (c) upon 2 business days after delivery to a recognized courier, fees prepaid. The parties designate the following addresses for the foregoing legal effects:

TO DISTRIBUTOR:

TO USCO:
Attention:

The parties may amend the above-mentioned data by notice to all other parties, as provided in this Section.

19. FORCE MAJEURE.

19.1 Nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or order or restrictions, failure of suppliers or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.

20. LIMITATION OF LIABILITY.

20.1 Regardless of whether any remedy fails of its essential purpose, in no event will either party be liable to the other party for incidental, indirect, special or consequential damages, notwithstanding being aware of the possibility of such damages. Neither party's liability for any damages or claims shall exceed US $0.5 million.

21. DISPUTE RESOLUTION.

21.1 The Advisory Board of Distributor shall have the general responsibility of resolving disputes between USCo and Distributor that relate to major issues concerning Agreement interpretation, operations and implementation of the joint strategy. Following failure of the Board to resolve a dispute, either party may request mediation or arbitration under the Agreement to be held in Zurich Switzerland.

21.2 ARBITRATION. In the event of any dispute, controversy or claim arising out of or relating to this Agreement, or to the breach or termination hereof (a "Dispute"), the parties agree to resolve the same as follows:

(a) The parties to the Dispute shall initially attempt to resolve it through consultations and negotiations as specified in 21.1.

(b) If the Dispute has not been resolved amicably within thirty (30) days after any party provides notice thereof, unless the parties agree otherwise, the Dispute shall be resolved by final and binding arbitration in the City and county of Zurich, Switzerland, in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL"), as in effect on the date of this Agreement. The language to be used in the arbitration proceeding shall be English. The International Chamber of Commerce shall serve as the appointing authority. The arbitrators shall render a written award stating the reasons for the decision. Judgment on an arbitration award or decision may be entered by any court of competent jurisdiction, or application may be made to such a court for judicial acceptance of the award or decision and any appropriate order, including enforcement.

(c) Each of the parties hereto consents to the submission of any Dispute for settlement by final and binding arbitration in accordance with paragraph (b) above. Such consent shall satisfy the requirements for an "agreement in writing" pursuant to Article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards, done at New York on June 10, 1958.

(d) Each of the parties hereby undertakes to carry out without delay the provisions of any arbitration award or decision.

22. NAME OF DISTRIBUTOR.

22.1 USCO TECHNOLOGY ______. Subject to Section 22.2, Distributor agrees to perform its obligations under the name USCo Technology ______ or such other name as is agreed to by the parties.

22.2 LICENSE AGREEMENT. USCo agrees to execute a License agreement with Distributor which will confer on Distributor limited rights to use the appropriate USCo trade marks and trade names for a minimum period of three year.

22.3 CESSATION OF USE. Distributor agrees that if the License agreement referred to in section 22.2 above terminates expires or if for any reason Licensee breaches the License agreement, Licensee will immediately cease using the USCo trade marks and trademarks. This section does not limit any other action USCo may have against Distributor for its breach. Distributor shall change its name immediately to eliminate the name or reference to USCo or its products should it elect to sell products that compete with the products of USCo.

23 SEVERABILITY.

23.1 If one of the provisions of this agreement should be or become invalid or if this agreement should have an omission, this shall not affect the validity of the remaining provisions. In such an event, the parties are obliged to assist in the incorporation of provisions which form the closest economic equivalent to that which the parties would have agreed if they had been aware of the invalidity or if they had considered the point.

SO AGREED BETWEEN THE PARTIES HERETO:

"USCO"

"DISTRIBUTOR"

EXHIBIT A
SOFTWARE TO BE DISTRIBUTED BY DISTRIBUTOR

Server: Data Movement Server
Web Link Server
Data Access Server

Power User Tools: USCo Administration Tool
USCo Design Studio Tool
USCo Automation Tool

End-User Tools: Information Studio Tool
Analysis Tool
Reporting Tool
Crystal Reporting Tool
Statistical Tool

EXHIBIT B
TERRITORY

The territory shall include the following countries and/or accounts:

-- ______y

-- Austria

-- Switzerland

-- ______-speaking regions

-- Nestle headquartered in Vevey/French-speaking Switzerland

-- The World Economic Forum (WEF) headquartered in Geneva/French-speaking Switzerland.

EXHIBIT C
DISTRIBUTOR'S HIRING PROJECTIONS

____	1999	2000

	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3
	--	--	--	--	--	--	--	--	--	--	--	--
SALES	6	--	1	2	3	4	4	5	5	6	6	6
SUPPORT	--	2	2	3	4	4	5	5	7	7	7	7

EXHIBIT D
BUSINESS PLAN

EXHIBIT E
MINIMUM ROYALTY PAYMENT TARGETS

First 12-month period* US$[*]

Second 12-month period US$[*]

Third 12-month period US$[*]

* The first 12-month period shall start on May 1, ____.

EXHIBIT F
USCO'S NON-STANDARD PRICING POLICY

Any transaction requiring a discount or non-standard pricing of greater than:

Product License Revenue: [*]% Discount

Product Maintenance Revenue: [*]% Discount

Professional Services Revenue: [*]% Discount

must have prior written approval to USCo's Vice President of Worldwide Sales.

Any total Transaction Revenues exceeding US$200,000 require that USCo's Vice President of Worldwide Sales has been informed prior to the closing of the respective deal.

EXHIBIT G
USCO'S STANDARD END USER AGREEMENTS
including their respective exhibits

TRADE MARK LICENSE AGREEMENT

Trade Mark License Agreement

This Trade Mark License Agreement (the "AGREEMENT") is entered into on ____ (the "EFFECTIVE DATE") between USCo ("OWNER") Joint Venture Company ("USER").

1. RECITALS

1.1 The Owner owns or is the Licensee of Trade Marks used to identify its products and Services in the software industry.

1.2 The User has rights to distribute the Owner's Software and Services in the Territory and desires to obtain limited, nonexclusive rights to use the Trade Marks with the Software and Services for the term of this Agreement.

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

2. DEFINITIONS

In this Agreement the following terms shall bear the following meanings:

2.1 "DISTRIBUTION AGREEMENT" shall mean the Exclusive Software Distribution Agreement executed on April 8, ____ between Owner and User.

2.2 "METHODS" shall mean the Methods set out in Exhibit D hereto which relate to the creation and duplication of the Software and Services for distribution to third party end users.

2.3 "RULES" shall mean the rules which are set out in Exhibit B hereto which govern the manner in which the Trade Marks may be displayed.

2.4 "SERVICES" shall mean the services and related documentation further described in Exhibit C hereto and which are provided by User which may be identified through use of the Trade Marks.

2.5 "SOFTWARE" shall mean the software and related documentation further described in Exhibit C hereto and which are provided by User which may be identified through use of the Trade Marks.

2.6 "STANDARD OF QUALITY" shall mean the standards of quality, further described in Exhibit D hereto, which relate to the manner of display of the Trade Marks with the Software and Services.

2.7 "TERRITORY" shall be the territory set forth in the Distribution Agreement.

2.8 "TRADE MARKS" shall mean the trademarks set out in Exhibit A hereto.

3. USE OF TRADE MARKS

3.1 PERMISSION TO USE. The Owner hereby grants the User for the term of this Agreement a license to use the Trade Marks in the Territory as trade marks upon or in relation to the Software and Services and the advertising and licensing thereof provided that the User complies with the terms of this Agreement. User agrees to follow the Rules which govern the manner in which the Trade Marks are displayed. Owner hereby also agrees to permit the User to use the Trade Mark "USCo" in its company name for the term of this Agreement. Such permission will not extend to any subsidiaries or affiliates of User. The parties intend that the company name will be "USCo Technology ______." The User will not use a different company name without the Owner's written permission which shall not be unreasonably withheld.

3.2 Such license is nonexclusive and nontransferable.

3.3 The User undertakes not to use any of the Trade Marks whether by themselves or as part of any other name for identification of Software or Services or other products or services not manufactured or provided by the Owner.

3.4 STANDARD OF QUALITY. The permission to use the Trade Marks shall apply only to the Software and Services made according to the Methods disclosed hereunder provided that any such Software and Services comply with the Standard of Quality set out in Exhibit D.

4. SPECIMEN SOFTWARE AND INSPECTION

4.1 At Owner's request, User shall, at its expense, submit to Owner copies of the Software and any related documentation and related collateral materials to Owner for inspection and testing. Such testing will be completed 10 business days after it is received by Owner.

4.2 User agrees to immediately destroy all materials which contain any of the Trade Marks which do not conform to the terms and conditions of this Agreement.

4.3 User shall permit Owner or its agent or representative, at all reasonable times to enter any place where the Software and related materials with the Trade Marks are stored for the purposes of inspecting and testing the same and of checking the method of manufacture, processing, packaging, or storing, in order to ascertain that they attain the Standard of Quality.

5. APPLICATION OF TRADE MARKS

5.1 User shall identify all the Software and Services manufactured or provided and licensed hereunder by using the Trade Marks permanently affixed to the Software or the materials related to provision of the Services. User shall supply to the Owner copies, specimens, or representations of each different depiction of each Trade Mark the User proposes to use. Users shall comply with the Rules and the User shall not use any other or additional trade mark upon or in relation to the Software or Services except with the prior written consent of the Owner.

6. WARRANTY

6.1 User shall not knowingly use or consent to the use of a Trade Mark except in relation to the Software and the Services which must in all instances comply with the Standard of Quality.

7. PRESERVATION OF GOODWILL

7.1 User acknowledges that Owner is, and will remain, the sole and exclusive owner of all goodwill associated with the Trade Marks. User recognizes the value of the goodwill associated with the Trade Marks, and acknowledges that such value is owned by and belongs solely and exclusively to Owner. User waives any right it may have to receive any compensation or reparations prior to, upon, or following termination or expiration of this agreement under the law of the territory or otherwise. Owner will not be liable to User on account of termination or expiration of this Agreement, or otherwise, for reimbursement or damages for the loss of goodwill, prospective profits or anticipated income, or on account of any expenditures, investments, leases or commitments made by User or for any other reason whatsoever based upon or growing out of such termination or expiration or otherwise. User acknowledges that (i) it has no expectation and has received no assurances that any investment by it in the promotion of products utilizing the Trade Marks will be recovered or recouped or that it will obtain any anticipated amount of profits by virtue of this Agreement, and (ii) it will not have or acquire by virtue of this Agreement or otherwise any vested, proprietary or other right in the Trade Marks or in goodwill created in the Trade Marks. User acknowledges that the provisions of this section are an essential element of this agreement.

8. THE TERRITORY

8.1 For the protection of the Owner's rights in the corresponding Trade Marks in other countries, the User shall not export products bearing any Trade Mark to any country outside of the Territory without first obtaining from the Owner written permission to do so.

13.1 The User shall pay to the Owner an annual fee of US$1.00 during the life of this Agreement. Payment shall be due on the first day of December of each year.

13.2 Any amounts payable under this Agreement are net amounts and are payable in full to Owner. User is responsible for all taxes, duties and levies.

14. ANCILLARY

14.1 NO ASSIGNMENT: The benefit of this Agreement shall be personal to the User who shall not without the prior consent in writing of the Owner mortgage, or charge the same to any third party nor assign the same, or part with any of its rights or obligations hereunder, nor (except as hereinafter provided) purport to grant any sublicense in respect of the Trade Marks. The Owner shall not be required to give any consent to assign the rights granted hereunder to any person, firm, or corporation.

14.2 INDEMNITY: Owner will defend at its expense any action brought against User to the extent it is based on a claim that a Trade Mark, when used within the scope of this Agreement, infringes a trademark in any country of the Territory in which such Trade Mark has been registered by Owner, and Owner will pay any settlements and any costs, damages and attorney's fees finally awarded against User in such action which are attributable to such claim; provided that the foregoing obligation will be subject to User notifying Owner promptly in writing of the claim, giving Owner the exclusive control of the defense and settlement thereof, and providing all reasonable assistance to Owner in connection therewith.

14.3 GOVERNING LAW: The rights and obligations of the parties under this Agreement shall not be governed by the U.N. Convention on Contracts for the International Sales of Goods; rather such rights and obligations shall be governed and construed under the laws of the State of California, without reference to conflict of laws and principles. The jurisdiction of the courts of ______y is expressly excluded except to the extent that Owner may seek any equitable remedy to which it may be entitled by reason of User's breach of this Agreement, from the relevant court in ______y or any other court. Distributor acknowledges that its breach of this agreement may cause irreparable harm to USCo, for which USCo may obtain injunctive relief.

14.4 ARBITRATION: In the event of any dispute, controversy or claim arising out of or relating to this Agreement, or to the breach or termination hereof (a "Dispute"), the parties agree to resolve the same as follows:

(a) The parties to the Dispute shall initially attempt to resolve it through consultations and negotiations.

(b) If the Dispute has not been resolved amicably within thirty (30) days after any party provides notice thereof, unless the parties agree otherwise, the Dispute shall be resolved by final and binding arbitration in the City and county of Zurich, Switzerland, in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law ("UNCITRAL"), as in effect on the date of this Agreement. The language to be used in the arbitration proceeding shall be English. The International Chamber of Commerce shall serve as the appointing authority. The arbitrators shall render a written award stating the reasons for the decision. Judgment on an arbitration award or decision may be entered by any court of competent jurisdiction, or application may be made to such a court for judicial acceptance of the award or decision and any appropriate order, including enforcement.

(c) Each of the parties hereto consents to the submission of any Dispute for settlement by final and binding arbitration in accordance with paragraph (b) above. Such consent shall satisfy the requirements for an "agreement in writing" pursuant to Article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitration Awards, done at New York on June 10, 1958.

(d) Each of the parties hereby undertakes to carry out without delay the provisions of any arbitral award or decision.

14.5 NOTICES: All notices sent to the other party concerning this agreement shall be in English and addressed to the party at the address set out at the beginning of the Agreement. All notices sent to Owner shall be marked to the attention of USCo.

15. TERMINATION

15.1 NONPAYMENT OR INSOLVENCY: This Agreement may be terminated by either party, on notice to the other party upon (a) the institution by or against the other party of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of the other party's debts where such proceedings are not stayed or withdrawn within thirty (30) days, or upon (b) the other party's making an assignment for the benefit of creditors, or upon (c) the other party's dissolution or ceasing to conduct business in the normal course.

15.2 This Agreement shall remain in effect for the same period as the Distribution Agreement and no longer.

15.3 BREACH BY EITHER PARTY: This agreement may be terminated by either party hereunder if the other party fails to perform or observe any of the terms hereof on its part to be performed and observed and fails to remedy such breach within thirty days of a notice from the other party to remedy the same giving adequate particulars of the alleged default and of the intention of the party serving the notice to terminate this Agreement under this clause unless such default is made

good or remedied within thirty (30) days. If either party waives its rights due to a breach of any provision of this Agreement such waiver shall not be construed as a continuing waiver of other breaches of the same or other provisions. User's agreement with any third party to distribute software and or services which are competitive with the Software and Services set out in this Agreement shall be deemed to be a breach of this Agreement and shall entitle Owner to terminate this Agreement on thirty days notice.

15.3.1 SALE TO THIRD PARTY: This Agreement shall terminate on the sale of User to any third party.

15.4 SAVING FOR ACCRUED RIGHTS: Any termination of this Agreement shall be without prejudice to the rights of either party against the other which may have accrued up to the date of such termination and notwithstanding termination, the obligations of each party not to disclose information received in confidence from the other party shall remain in effect.

15.5 RETURN OF MATERIALS: At the termination or expiration of this Agreement, User shall immediately return to Owner all materials which contain any of the Trade Marks or have had a Trade Mark affixed.

16. ENTIRE AGREEMENT

16.1 This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter herein and merges all prior agreements, discussions, and understandings between them. No modification of or amendment to the Agreement, nor any waiver of any rights under this Agreement shall be effective unless in writing signed by an officer of Owner and User. The terms and conditions of this Agreement shall supersede the terms and conditions of User's purchase order, if any.

17. LIMITATION OF LIABILITY

17.1 Regardless of whether any remedy fails of its essential purpose, in no event will owner be liable for incidental, indirect, special or consequential damages, notwithstanding being aware of the possibility of such damages.

18. SEVERABILITY

18.1 If one of the provisions of this Agreement should be or become invalid, or if this Agreement should have an omission, this shall not affect the validity of the remaining provisions. In such an event, the parties are obliged to assist in the incorporation of provisions which form the closest possible economic equivalent to that which the parties would have agreed if they had been aware of the invalidity or if they had considered the point.

IN WITNESS THEREOF THE PARTIES HERETO HAVE CAUSED THIS INSTRUMENT TO BE DULY EXECUTED BY THEIR REPRESENTATIVES.

"OWNER" "USER"

USCO ____________________

EXHIBIT A
THE TRADE MARKS

USCo:_____ Trade Mark Registration number:

List of Trade Marks:

EXHIBIT B
THE RULES RELATING TO THE DISPLAY OF THE TRADE MARKS

The following Trade Marks must always have the first usage in a document accompanied by the symbol "TM."

List of Trade Marks:

The USCo corporate logo will be provided to User in electronic and printed form.

Samples of each Trade Mark are attached

EXHIBIT C

SOFTWARE

Server: Data Movement Server
Web Link Server
Data Access Server

Power User Tools: USCo Administration Tool
USCo Design Studio Tool
USCo Automation Tool

End-User Tools: Information Studio Tool
Analysis Tool
Reporting Tool
Crystal Reporting Tool
Statistical Tool

EXHIBIT D
METHODS AND STANDARD OF QUALITY

To be added upon availability