

04-14-2003



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RECORDATION FORM COVER SHEET  
COMMERCE

U.S. DEPARTMENT OF

TRADEMARKS ONLY

PATENT AND TRADEMARK OFFICE

ENTRIES AND TRADEMARKS: PLEASE RECORD ATTACHED ORIGINAL DOCUMENTS OR COPY THEREOF

1. NAME OF CONVEYING PARTY(IES):

International Software Technologies, Inc.

- INDIVIDUAL(S)
- GENERAL PARTNERSHIP
- CORPORATION-WISCONSIN
- OTHER
- ASSOCIATION
- LIMITED PARTNERSHIP

ADDITIONAL NAME(S) OF CONVEYING PARTY(IES) ATTACHED? Yes  No

2. NATURE OF CONVEYANCE:

- ASSIGNMENT
- SECURITY AGREEMENT
- OTHER
- MERGER
- CHANGE OF NAME

EXECUTION DATE: 10/30, 1992

4903

2. NAME AND ADDRESS OF RECEIVING PARTY(IES):  
NAME:

Allen Systems Group, Inc.

INTERNAL ADDRESS:

STREET ADDRESS:  
1333 3<sup>rd</sup> Ave. S.  
Naples, FL 34102

- INDIVIDUAL(S) CITIZENSHIP
- ASSOCIATION
- GENERAL PARTNERSHIP
- LIMITED PARTNERSHIP
- CORPORATION-STATE OF DELAWARE
- OTHER

IF ASSIGNEE IS NOT DOMICILED IN THE UNITED STATES, A DOMESTIC REPRESENTATIVE DESIGNATION IS ATTACHED Yes  No

ADDITIONAL NAME(S) AND ADDRESS(ES) ATTACHED? Yes  No

OFFICE OF PUBLIC RECORDS  
2003 APR -9 PM 3:40  
FINANCE SECTION

3. APPLICATION NUMBER(S) OR REGISTRATION NUMBER(S):

A. TRADEMARK APPLICATION No(s):

None.

B. TRADEMARK REGISTRATION No(s):

1,372,202

ADDITIONAL NUMBERS ATTACHED? Yes  No

4. NAME AND ADDRESS OF PARTY TO WHOM CORRESPONDENCE CONCERNING DOCUMENT SHOULD BE MAILED:

NAME: Michael L. Kraus

INTERNAL ADDRESS: Legal Department

STREET ADDRESS: 1333 Third Avenue South  
Naples, FL 34102

6. TOTAL NUMBER OF APPLICATIONS AND REGISTRATIONS INVOLVED: 1

7. TOTAL FEE (37 CFR 3.41) .....\$ 40.00

ENCLOSED

AUTHORIZED TO BE CHARGED TO DEPOSIT ACCOUNT<sup>1</sup>  
NOTE: (ONLY IF AMOUNT ENCLOSED IS INCORRECT)

8. DEPOSIT ACCOUNT NUMBER:

501795

(ATTACH DUPLICATE COPY OF THIS PAGE IF PAYING BY DEPOSIT ACCOUNT)

Do NOT Use THIS SPACE

9. STATEMENT AND SIGNATURE.

To the best of my knowledge and belief the foregoing information is true and correct and any attached copy is a true copy of the original document.

Arthur L. Allen  
NAME OF PERSON SIGNING

SIGNATURE

March 18, 2003  
DATE

TOTAL NUMBER OF PAGES COMPRISING COVER SHEET: 1

04/11/2003 DBYRNE 00000025 1372202

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40.00 OP

ASSET PURCHASE AGREEMENT

AGREEMENT MADE and entered into as of this 30th day of October, 1992 between ALLEN SYSTEMS GROUP, INC., a Delaware corporation having its principal place of business at 750 11th Street S., Naples, Florida 33940 ("purchaser"), and INTERNATIONAL SOFTWARE TECHNOLOGY, INC., a Wisconsin corporation having its principal place of business at 1112 7th Avenue, Monroe, Wisconsin 53566 ("seller");

W I T N E S S E T H :

WHEREAS, seller owns and desires to sell to purchaser certain assets (as defined herein) and purchaser desires to purchase such assets from seller and, thereafter, to use, market, license, sublicense, develop, maintain, collect and otherwise deal with the assets without restriction, and

WHEREAS, the parties have simultaneously herewith entered into a marketing agreement whereby prior to the effective date (as hereinafter defined), purchaser has agreed to market, sublicense, and service the software (hereinafter referred to as the "marketing agreement");

NOW, THEREFORE, in consideration of the respective representations and warranties hereinafter set forth and of the mutual covenants and agreements contained herein, the parties agree as follows:

## ARTICLE 1

### DEFINITIONS

As used herein, the following terms shall have the following meanings:

1.1 "Assets" shall mean and include the following:

(a) The existing computer software programs of seller (the "software"), as more fully described in Exhibit 1 annexed hereto, whether now in existence or in the development stage, including (i) all technology, know-how, trade secrets, tapes, disks, flow charts, diagrams, object codes, source codes, documents, manuals, inventory and development materials relating thereto, and (ii) all marketing, distribution, and other rights respecting such software programs and related materials.

(b) All license, maintenance, and other agreements with customers of seller relating to the software presently in effect, and supplemented by those in effect as of the asset transfer date (as defined in Section 1.2 below) as set forth in Exhibit 2 annexed hereto.

(c) A list of all users and present prospects for the software, as set forth in Exhibit 3 annexed hereto.

(d) The right to solicit for employment the persons described in Exhibit 4 annexed hereto.

(e) All patents, patent rights, trademark, trademark rights, trade names, trade name rights, copyrights, applications for patents, trademarks, trade names, and copyrights relating

solely to the software, all as described on Exhibit 5 annexed hereto.

(f) Copies of all seller's business records that relate to the marketing, licensing, distribution, maintenance, support, or enhancement of the software (but not its corporate or tax records).

1.2 "Asset Transfer Date" shall mean the date on which purchaser satisfies its minimum performance obligations as defined by Section 10.01 of the marketing agreement, which is incorporated herein by reference and made a part hereof.

1.3 "Territory" shall mean the entire world.

1.4 "Distributors" shall mean those persons and entities listed on Exhibit 6 annexed hereto who have any right to license, sublicense, market, maintain, or support the software in any part of the world pursuant to any written or oral agreement with seller or any affiliate or predecessor of seller.

1.5 "Software Segment of Seller's Business" shall mean seller's business, as currently conducted, related to the sale, licensing, sublicensing, marketing, promotion, development, maintenance, enhancement, or modification of the software.

## ARTICLE 2

### PURCHASE OF ASSETS

Subject to the terms and conditions herein set forth:

2.1 Purchase of Assets. On the asset transfer date, seller will sell, assign, convey, transfer, and deliver to purchaser, and purchaser will purchase and acquire all right, title, and interest in and to the assets free and clear of any liens, pledges, security interests, claims, or encumbrances of any kind, except as disclosed on Exhibit 2 hereto.

2.2 Instruments of Assignment. The sale, assignment, conveyance, and transfer of the assets to purchaser, as herein provided, shall be effected by seller's execution and delivery of all such bills of sale, endorsements, assignments, consents and other good and sufficient instruments of transfer and conveyance as shall be reasonably satisfactory in form and in substance to purchaser and its counsel and as shall be effective to vest in purchaser all right, title, and interest of seller in and to the assets.

2.3 The Purchase Price. The consideration for the assets to be sold to purchaser as provided herein shall be set forth on Schedule A annexed hereto and made a part hereof.

2.4 Reservation by Seller. Notwithstanding the transfer of assets provided by this agreement, seller reserves the right to one copy of the products for itself and one copy of the products for SC Data Center, Inc. and maintenance of these products shall be provided by purchaser without charge so long as purchaser shall provide maintenance in connection with the products to any other party.

## ARTICLE 3

### ASSUMED LIABILITIES

#### 3.1 Assignment and Assumption of Certain Liabilities.

Subject to the terms and conditions of this agreement, seller hereby assigns, and purchaser hereby assumes, the obligation to perform and discharge seller's obligations under all customer license, maintenance, and other agreements with respect to the software in effect on and after execution of this agreement (except maintenance, which is one year), if set forth and identified on Exhibit 2 annexed hereto. Notwithstanding the foregoing, for a period of one year following execution of this agreement, seller shall remain responsible to perform maintenance pursuant to all maintenance agreements in effect as of the date of execution of this agreement on licenses issued pursuant to the marketing agreement between the parties during said one year period.

3.2 Limitation. Except as specifically set forth in paragraph 3.1 above, no other debts, obligations, contracts, or liabilities of seller are being assumed by purchaser pursuant to this agreement or otherwise, including specifically, but not by way of limitation, any tax liabilities of seller and its predecessors of any nature whatsoever, including any which may arise as a result of the transactions contemplated by this agreement.

3.3 Consents to Assignment. By the asset transfer date, seller will take all steps reasonably necessary to obtain the consent of the other parties to all material contracts of seller included among the assets to the assignment thereof to purchaser.

#### ARTICLE 4

##### SELLER'S REPRESENTATIONS AND WARRANTIES

4.1 Organization and Good Standing. Seller is a corporation duly organized, validly existing, and in good standing under the laws of the state of its incorporation. A good standing certificate issued by the Secretary of State of such state issued within ninety (90) days of the execution date of this agreement is annexed hereto as Exhibit 7.

4.2 Corporate Authority. Seller has full authority to execute and to perform this agreement in accordance with its terms; to the best of seller's knowledge, the execution and delivery of this agreement and the consummation of the transactions contemplated hereby do not and will not result in a breach, violation, or default or give rise to an event which, with the giving of notice or after the passage of time, would result in a breach, violation, or default or give rise to an event which, with the giving of notice or after the passage of time, would result in a breach, violation, or default of any of the terms or provisions of seller's certificate of incorporation,

by-laws, or of any indenture, agreement, judgment, decree, or other instrument or restriction to which seller is a party or by which seller or any of the assets may be bound or affected; the execution and delivery of this agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of seller and no further authorization or approval, whether of the shareholders or directors of seller or governmental bodies or otherwise, is necessary in order to enable seller to enter into and perform the same; and this agreement constitutes a valid and binding obligation enforceable against the seller in accordance with its terms.

4.3 Title to Assets. Except as set forth in documents listed in Exhibits 2 or 6 hereto, from the date of execution of this agreement through to the asset transfer date (a) seller has good and marketable title to all of the assets; (b) to the best of seller's knowledge, none of the assets or use thereof: (i) is subject to any easements, restrictions, mortgages, liens, pledges, charges, encumbrances, encroachments, or rights of others of any kind or nature whatsoever, (ii) encroaches or infringes on the property or rights of another, or (iii) contravenes any applicable law or ordinance or any administrative regulation or violates any restrictive covenant, the enforcement of which would result in any material liability to the owner of



the assets or would in any respect interfere with or prevent the present and continued use of the assets for the purposes for which they are now being used or would materially affect the value thereof, and (c) there are no material agreements or arrangements between seller and any third person which have any effect upon seller's title to and other rights respecting the assets.

4.4 Patents, Trademarks, Etc. There are no inventions, licenses, patents, patent applications, trademarks, copyrights, trademark or copyright applications, or registrations, pending or existing, relating to the software owned by or registered in the name of seller or in which seller has any rights except as described in Exhibit 5; seller owns the inventions, patents, licenses, trademarks, trade names, and copyrights, existing or pending, listed in Exhibit 5 hereto which are all such items necessary for the present conduct of its business relating to the software, none of which is being contested or infringed upon; and the present conduct of the business of seller with respect to the software does not infringe upon or violate the patents, trademarks, trade names, trade secrets, or copyrights of anyone, nor has seller received any notice of any infringement thereof.

4.5 Compliance With Law. Seller is not in violation of any laws, material governmental orders, rules, or regulations,

whether federal, state, or local, to which the assets are subject.

4.6 Salaries. Exhibit 4 sets forth, as of the execution date of this agreement, a true and complete list of all the person who are employed by seller and are being made available for employment by purchaser on or before the effective date, together with their current compensation and bonuses paid for the full calendar year immediately preceding the execution date of this agreement. No such employee is employed by seller under a written contract of employment with seller. Except as provided by law, such as COBRA rights, as of the asset transfer date, seller will not have, with respect to any of the employees of seller who are being made available for employment by purchaser, any outstanding liability for payment of wages, vacation pay, salaries, bonuses, pensions or contributions under any labor or employment contract, whether oral or written, or by reason of any past practices with respect to such employees.

4.7 Customer Base. Seller has no knowledge or information that any existing customer of the software has ceased, or intends to cease, to utilize the software or the services of seller related to the software as of the execution date of this agreement except for those customers disclosed on Exhibit 8.

4.8 Seller's Revenue and Expense Statements. Seller has heretofore delivered to purchaser a statement as to the revenues

and direct costs of the software segment of seller's business for the three (3) fiscal years prior to the execution date of this agreement (the "software revenues and direct costs"). The software revenues and direct costs are based upon the books and records of the seller prepared on a consistent basis in accordance with the generally accepted accounting principles of seller, to the extent they may apply, and fairly present the revenues and direct costs of the software segment of seller's business for the periods covered thereby.

4.8 Material Agreements. Exhibit 9 annexed hereto lists all agreements relating to seller's acquisition of the software and associated rights and all other material agreements involving the software segment of seller's business excluding routine customer license agreements and the distributor agreements listed on Exhibits 2 and 6.

4.9 Confidentiality Agreements. Exhibit 10 annexed hereto lists all confidentiality agreements with third parties relating to the software and also lists those persons who have had access to the source code without executing confidentiality agreements, whether entered into directly with seller or assigned to seller, except for any such agreements entered into between the seller and any of its employees (the "employee confidentiality agreements").

4.10 Future Commitments. Except as is set forth in the marketing agreement, seller has not made nor will make any agreement or commitment to perform any development work in the future on any of the software.

4.11 Distributors. Exhibit 6 annexed hereto sets forth a complete list of (a) all distributors and agents with whom seller has agreements currently in effect respecting marketing or distribution of the software, and (b) the revenues received by seller from each such distributor or agent during seller's most recent fiscal year. Seller shall use its best efforts to effect termination of each such agreement and shall assign any agreement to purchaser that cannot be terminated, but this agreement is subject to any and all legal rights which such distributors may have under agreements and seller shall accept no further liability thereunder following execution of this agreement. Purchaser agrees to accept assignment of those distributorship contracts which cannot be terminated and to continue performance thereunder and to indemnify seller and hold seller harmless with respect thereto.

4.12 Public Domain. Seller represents and warrants that it will not take any action that directly or indirectly will cause the Software to enter the public domain.

## ARTICLE 5

### REPRESENTATIONS AND WARRANTIES OF PURCHASER

Purchaser hereby represents and warrants to seller as follows:

5.1 Organization and Good Standing. Purchaser is a corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware.

5.2 Corporate Authority. Purchaser has full authority to execute and to perform this agreement in accordance with its terms; the execution and delivery of this agreement and the consummation of the transactions contemplated hereby does not and will not result in a breach, violation or default or give rise to an event which, with the giving of notice or after the passage of time, would result in a breach, violation, or default of any of the terms or provisions of purchaser's certificate of incorporation, as amended, or by-laws or of any indenture, agreement judgment, decree, or other instrument or restriction to which purchaser is a party or by which purchaser may be bound or affected; the execution and deliver of this agreement and consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of purchaser and no further authorization or approval, whether of the shareholders or directors of purchaser or governmental bodies or otherwise, is necessary in order to enable purchaser to enter

into and perform the same; and this agreement constitutes a valid and binding obligation of purchaser in accordance with its terms.

## ARTICLE 6

### ADDITIONAL COVENANTS

#### 6.1 Examination of Records.

(a) Purchaser shall have the right and opportunity, prior to the asset transfer date, during normal business hours, to make such examination and investigation of the software segment of seller's business as purchaser may deem reasonably necessary for all purposes relating to this agreement, and to that end, seller agrees to open its books and accounts and records relating to the software segment of seller's business for examination by purchaser's representatives, accountants, and counsel. Seller will furnish to purchaser and its authorized representatives all other information with respect to the software segment of seller's business which purchaser may reasonably request. No investigation undertaken by purchaser shall relieve seller from any liability hereunder.

(b) Purchaser will hold in strict confidence and not use for its own benefit all documents and information (including all evaluation material relating to the employees of seller in the software segment of seller's business) furnished or obtained by purchaser in connection with the transactions contemplated by

this agreement and, if the transactions contemplated by this agreement shall not be consummated, such confidence shall be maintained, such information shall not be used or disclosed for any purpose, and all such documents and copies thereof shall promptly be returned to seller. The foregoing covenants of purchaser shall not apply to information of or respecting seller which (i) becomes generally available to the public without breach of this agreement or other fault of purchaser; (ii) rightfully was available to purchaser on a non-confidential basis prior to its disclosure to purchaser by seller or seller's agents; (iii) rightfully becomes available to purchaser on a non-confidential basis from a source other than seller or seller's agents without breach of an agreement or other fault by such source; or (iv) the disclosure of which is required by court order.

## 6.2 Non-Competition.

(a) During the period from and after the execution date of this agreement until the fifth anniversary of the asset transfer date, seller shall not, directly or indirectly, engage in a business or enterprise in the development or marketing of any competing computer software and during such period shall not solicit or attempt to solicit sales or licenses or any competing computer software, interfere with, disrupt, or attempt to disrupt the relationship, contractual or otherwise, between purchaser and

its customers, suppliers, agents, consultants, officers, or employees relating to the software. Nothing herein shall prevent or restrict seller from the development of software for seller's own use or for use by any company or organization, over 50 percent of which is owned or controlled by the current owners of seller.

(b) The phrase "competing computer software" as used herein means any software product which has the same or substantially similar purposes as the software, which performs functions substantially similar to the software, and the marketing of which would tend to inhibit licensing or marketing of the software. The provisions of Section 6.2 shall not prevent seller from investing its assets in securities of any corporation provided that such investments shall not result in (i) its owning beneficially at any time 50 percent or more of the equity securities of any corporation engaged in business competitive to that of the purchaser or (ii) otherwise be able to control or actively participate in the policy decisions of such competing business.

(c) It is the desire and intent of the parties that the provisions of this Section 6.2 shall be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. If any particular provision or portion of this Section 6.2 shall be



adjudicated to be invalid or unenforceable, this paragraph shall be deemed amended to delete therefrom such provision or portion thereof adjudicated to be invalid or unenforceable, such amendment to apply only with respect to the operation of this paragraph in the particular jurisdiction in which such adjudication is made. If there is a breach or threatened breach of the provisions of this Section 6.2, purchaser shall be entitled to an injunction restraining seller from such breach. Nothing herein shall be construed as prohibiting purchaser from pursuing any other remedies for such breach or threatened breach.

(d) The undertakings and covenants of seller contained in this Section 6.2 are an integral part of the transactions set forth in this agreement and the consideration paid by purchaser pursuant to this agreement shall be consideration not only for the assets but also for the undertakings and covenants of seller set forth herein.

## ARTICLE 7

### FURTHER ASSURANCES

7.1 Release by Distributors. Within no later than sixty (60) days after the execution date of this agreement (the "release deadline"), seller shall use seller's best efforts to obtain and deliver to purchaser documentation, in form and substance reasonably satisfactory to purchaser, from each

distributor listed on Exhibit 6 which has consented and agreed to termination of its distributorship arrangement, providing that (i) all agreements respecting the software between it or seller and any customer of it or seller are forthwith assigned to purchaser; and (ii) all of its rights, interests, and claims respecting the assets are terminated and/or released forthwith in favor of purchaser (the "distributor's release").

7.2 Delivery of Materials. Seller shall deliver to purchaser all computer tapes, documentation, promotional materials, and other information it has which may comprise the assets, including all existing, proposed, or expired license and maintenance agreements respecting the software, and all lists of current, past, or prospective customers for the software. Seller shall, further, upon the asset transfer date as defined in Section 1.2 deliver the source code for the product to purchaser.

7.3 Consulting Services. If purchaser is unable, despite reasonable efforts, to hire the employees listed on Exhibit 4, then for the period of ninety (90) days from and after the asset transfer date, seller shall cause those of its employees still in seller's employ whose consultative services are reasonably required by purchaser to consult with purchaser's employees with respect to the assets on a full-time basis and purchaser shall reimburse seller for its expenses in connection therewith at seller's cost.

7.4 Further Assurances. At any time and from time to time after the asset transfer date, seller and purchaser shall, without further consideration, execute and deliver such other instruments of assignment, transfer, and assumption and take such other actions as either party may reasonably request to carry out the sale of the assets and the other transactions contemplated by this agreement.

## ARTICLE 8

### SPECIAL COVENANTS

8.1 Brokerage. Purchaser and seller represent and warrant to each other that all negotiations relative to this agreement and the transactions contemplated hereby have been carried on by seller and purchaser and without the intervention of any person or entity except as set forth on Exhibit 11 and that no commission or finder's fee is owing to any person or entity except as set forth on Exhibit 11. Each of the parties agrees to indemnify the other party in the event of the breach by such party of the foregoing representation and warranty.

8.2 Cooperation. Seller and purchaser shall cooperate with each other with respect to actions required or requested to be undertaken with respect to tax audits, administrative actions, or proceedings, litigation and any other matters that may occur after the asset transfer date, and shall maintain and make

available to each other upon request all corporate, tax, and other records required or requested in connection with such matters.

## ARTICLE 9

### INDEMNIFICATION

9.1 Survival of Representations and Warranties. Except as otherwise specifically set forth herein, the representations and warranties of seller and purchaser shall terminate on the first anniversary of the asset transfer date.

9.2 Indemnification by Seller. From and after the date of execution hereto, seller hereby agrees to indemnify and hold purchaser, and each of purchaser's affiliates, offices, directors, agents, representatives, and employees, harmless from and against any and all claims, losses, expenses, damages, or liabilities arising out of or relating to any of the following: (a) the representations and warranties set forth herein not being true and correct in all material respects on the date of execution hereof; (b) any breach, violation, or nonperformance of a covenant to be performed hereunder on the part of seller; (c) any obligations, liabilities, or commitments of seller arising in whole after the date of execution hereof; and (d) any claim for brokerage fees, finder's fees, agent's commissions, or other similar forms of compensation in connection with this agreement

or any transaction contemplated hereby which arise solely from the actions or omissions of seller.

Purchaser shall have no right to offset against the purchase price for the purchased assets any claims it may have against seller.

9.3 Indemnification by Purchaser. From and after the date of execution hereof, purchaser hereby agrees to indemnify and hold seller and each of seller's affiliates, officers, directors, agents, representatives, and employees, harmless from and against any and all claims, losses, expenses, damages, or liabilities arising out of or relating to any of the following: (a) the representations and warranties herein not being true and correct in all material respects on the date of execution hereof; (b) any breach, violation, or nonperformance of a covenant to be performed hereunder on the part of purchaser; (c) any obligations, liabilities, or commitments of seller expressly assumed hereunder by purchaser; (d) any obligations, liabilities, or commitments arising from the activities of purchaser or from the operations of the business by purchaser after the date of execution hereof; (e) any claim for brokerage fees, finder's fees, agent's commissions or other similar forms of compensation in connection with this agreement or any transaction contemplated hereby which arise solely from the actions or omissions of purchaser. With respect to any government contracts assumed by

purchaser, purchaser hereby agrees that a "liability" for purposes of this section shall include excess costs of procurement incurred by seller, audits, price reductions, penalties, fines, judgments, proceedings, liquidated damages, assessments or default terminations, arising out of or related to the government contracts.

9.4 Indemnity Claims. Seller and purchaser shall give prompt written notice to the other after either of them obtains knowledge of any claim, obligation, liability, or action for which indemnification may be sought hereunder and of the commencement of any legal proceedings for which indemnification may be sought hereunder, whichever occurs first; provided that the failure to give such notice in the absence of the commencement of legal proceedings shall not adversely affect any right of indemnification under this agreement. The indemnifying party shall be entitled to control the defense of any such legal proceedings, through legal counsel reasonably satisfactory to the indemnified party, at the sole expense of the indemnifying party, and the indemnified party shall cooperate with the indemnifying party in the defense of such claim and shall have the right, but not the obligation, to participate in such defense at its own expense. If the indemnifying party elects not to direct such defense, then the indemnified party will have the right, at its own discretion, to direct such defense at the indemnifying

party's expense. The indemnifying party shall have the right to compromise or settle, with the indemnified party's prior written approval, any claim or litigation regarding which it is directing the defense. Such approval shall not be unreasonably withheld. In the event the indemnified party refuses to approve any compromise or settlement recommended by the indemnifying party which would have been concluded but for the indemnified party's failure to give approval, then the indemnifying party's liability to the indemnified party hereunder with respect to any such claim or litigation which would have been barred by such compromise or settlement shall not exceed the amount which the indemnifying party would have paid pursuant to said proposed compromise or settlement.

## ARTICLE 10

### GENERAL

10.1 Books and Records. On or promptly following the asset transfer date, seller shall deliver into purchaser's custody copies of all business records and agreements (and not the tax or corporate books and records) of seller relating to the software segment of seller's business.

10.2 Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be delivered personally, sent by telex or facsimile transmission or

sent by certified, registered or express mail, postage prepaid. Any such notice shall be deemed given when so delivered personally, sent by facsimile with a valid facsimile receipt, or, if mailed, two days after deposit in the United States mail, if addressed:

(a) In the case of seller, to:

International Software Technology, Inc.  
1112 7th Avenue  
Monroe, Wisconsin 53566

ATTENTION: Robert L. Ableman, President

(b) In the case of purchaser, to:

Allen Systems Group, Inc.  
750 11th Street S  
Naples, Florida 33940

ATTENTION: Arthur Allen, President

or such other address or to such other person as purchaser or seller shall have last designated by notice to the other parties given as herein provided.

10.3 Modification. This agreement and the exhibits annexed hereto contain the entire agreement of the parties hereto and there are no agreements, warranties, or representations which are not set forth herein. All prior negotiations, agreements, and understandings are superseded hereby. This agreement may not be modified or amended except by an instrument in writing duly signed by or on behalf of the parties hereto.

10.4 Governing Law. This agreement shall be governed by and construed and enforced in accordance with the laws of the



state of Florida applicable to agreements made and to be performed entirely within the state.

10.5 Arbitration. Any dispute arising under or in connection with this agreement or the transactions contemplated hereby shall be resolved by arbitration pursuant to the rules of the American Arbitration Association. The location of the arbitration proceedings shall be either Madison, Wisconsin or Naples, Florida, as shall be chosen by the party upon whom the demand for arbitration is made.

10.6 Binding Effect; Assignment. This agreement shall be binding upon the parties and inure to the benefit of the successors, assigns, heirs, and legal representatives of the respective parties hereto; provided, however, that this agreement and all rights hereunder may not be assigned by any party hereto except by or with the prior written consent of all other parties.

10.7 Counterparts. This agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

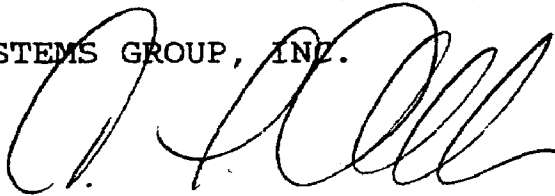
10.8 Paragraph Headings. The paragraph headings in this agreement are for convenience of reference only and shall not be deemed to alter or affect any provision hereof.

10.9 Transaction Expense. Notwithstanding anything else in this agreement to the contrary, the parties hereto shall each be responsible for the payment of (and shall indemnify and hold the other party harmless against) any and all of its own expenses, including without limitation the fees and expenses of counsel, accountants, and other advisors, arising out of or relating directly or indirectly to the transactions contemplated by this agreement, whether or not such transactions are consummated in whole or in part.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement on the day and year first above written.

ALLEN SYSTEMS GROUP, INC.

INTERNATIONAL SOFTWARE  
TECHNOLOGY, INC.

By   
Title PRESIDENT

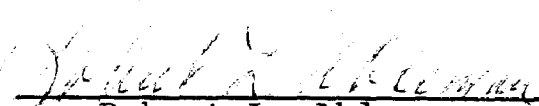
By   
Title President

EXHIBIT 5  
PATENTS, COPYRIGHTS, TRADEMARKS

TRADEMARKS

1. ODE

TRADE MARK

RECORDED: 04/09/2003

REEL: 002711 FRAME: 0147