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DATED

4th October

1991

PASSED FOR FILING

AGREEMENT  
relating to the DataEase business of

SAPPHIRE INTERNATIONAL PLC

SAPPHIRE INTERNATIONAL  
PUBLIC LIMITED COMPANY

(1)

ALAN BLOOM

(2)

- and -

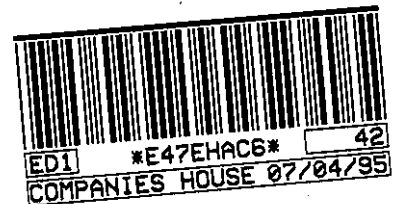
MARCHWELL LIMITED

(3)

LAWRENCE GRAHAM  
190 Strand  
London WC2R 1JN

Tel: 071-379 0000

Ref: JRV/A9315061AB/zff



23 SEP 1991

THIS AGREEMENT is made the 4th day of October

1991

6 MAR 1992

No. 201188

BETWEEN

- (1) SAPPHIRE INTERNATIONAL PUBLIC LIMITED COMPANY (in Members Voluntary Liquidation) whose registered office is at 1 Coventry Road, Ilford, Essex IG1 4QR ("the Transferor")
- (2) ALAN BLOOM of Ernst & Young, Becket House, 1 Lambeth Palace Road, London SE1 7EU ("the Liquidator") and
- (3) MARCHWELL LIMITED whose registered office is at 1 Coventry Road, Ilford, Essex IG1 4QR ("the Transferee")

WHEREAS

- (A) The Transferor is the holding company of the Transferee
- (B) On 24 and 25 September 1991 all the directors of the Transferor made a statutory declaration of solvency pursuant to Section 89 Insolvency Act 1986
- (C) At an Extraordinary General Meeting of the Members of the Transferor held on 4th October 1991 Special Resolutions were duly passed that the Transferor be wound up voluntarily, that the Liquidator be and was appointed the Liquidator of the Transferor for the purpose of such winding up and that there should be transferred to the Transferee such of those assets and liabilities of the Transferor relating to its business of publishing and distributing products of DataEase International, Inc. (the "DataEase Business") which shall have a total net asset value (excluding the royalties referred to below) as at 31 October 1991 of 1,000,000 US dollars at the exchange rates which the Transferor obtains from its bankers on 31 October 1991, together with all accrued but unpaid royalties due from the Transferor to DataEase International, Inc. ("the Assets") in return for an allotment of shares.
- (D) In pursuance of such latter Special Resolution and in consideration of the allotment to its shareholders of 2,246,785 Ordinary Shares of 5p each and 499755 "A" Ordinary Shares of 5p each in the capital of the



Transferee credited as fully paid up ("the Shares") the Transferor (acting by the Liquidator) has resolved in accordance with a memorandum of understanding dated 4th October 1991 ("the Memorandum of Understanding") to transfer the Assets and the related undertaking subject to all liabilities in relation to the DataEase Business upon the terms and conditions herein contained

NOW IT IS HEREBY AGREED as follows:-

1. INTERPRETATION

1.1 The following expressions used in this Agreement shall unless the context otherwise requires have the following meanings:-

"Assets"	see Recital (C)
"Completion"	means completion in accordance with Clause 3
"DataEase Business"	see Recital (C)
"Employees"	means the employees of the Transferor employed in the DataEase Business at the Transfer Date (including certain employees employed in both the DataEase and Non-DataEase Businesses who are to continue to be employed by the Transferee)
"Liabilities"	means all the liabilities of the Transferor incurred prior to the Transfer Date whether contingent prospective accrued or howsoever arising in relation to DataEase Business
"Premises"	1 and 2 Coventry Road, Ilford, Essex
"Shares"	2,246,785 Ordinary Shares of 5p each of 499,755 "A" Ordinary Shares of 5p each

both classes credited as fully paid up in the capital of the Transferee

"Subsidiaries"

Sapphire DataEase Limited, DataEase UK Limited, DataEase Europe Limited, DataEase International Limited, Belmont Limited, DataEase Italia S.R.L. and Sapphire Australia Proprietary Limited

"Transfer Date"

means the close of business on 4th October 1991

- 1.2 Words and expressions defined in the Companies Act 1985 as amended shall bear the same meanings in this Agreement save where the context otherwise requires
- 1.3 References in this Agreement to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted or as their application is modified by other provisions before the date hereof and shall include references to any provisions of which they are re-enactments (whether with or without modification) and any orders, regulations, instruments or other subordinate legislation made under the relevant statutory provision
- 1.4 Words and expressions in this Agreement importing any gender shall include all other genders and the singular number shall include the plural and vice versa
- 1.5 References in this Agreement to Clauses, Recitals and Annexures are references to such clauses, recitals and annexures of and to this Agreement
- 1.6 The headings in this Agreement are inserted for convenience only and shall not affect its meaning or construction

2. TRANSFER

- 2.1 The Transferor shall transfer to the Transferee as a going concern as at and with effect from the Transfer Date the Assets but subject to the Transferee assuming the Liabilities in accordance with Clause 2.2 and title in respect of such assets shall not pass until Completion in accordance with Clause 3.
- 2.2 The Transferee shall from the Transfer Date further assume liability for promptly discharging and holding the Transferor and the Liquidator fully and effectively indemnified in respect of all the Liabilities
- 2.3 It is agreed between the parties that the exclusions and agreements in relation to the Assets which are set out in the Schedule hereto shall take effect as if set out in full in this clause and shall apply at the Transfer Date

3. COMPLETION

- 3.1 Completion shall take place at 10am/~~pm~~ on 31 October 1991 at 1 Coventry Road, Ilford, Essex IG1 4QR (unless otherwise agreed) when the Transferor shall deliver or make available to the Transferee:-
- 3.1.1 all Assets title to which may be capable of passing by delivery whereupon title to such Assets shall pass to the Transferee
- 3.1.2 licences of the Premises in accordance with the Memorandum of Understanding.
- 3.1.3 duly completed and executed transfers in favour of the Transferee or as it may direct of all shares in the Subsidiaries (other than those held by other Subsidiaries) together with the corresponding share certificates and such other documents as may be necessary to complete the transfer of such shares, including appropriate board minutes of the Subsidiaries approving the transfers

- 3.1.4 all such other transfers, assignments, novations and licences in respect of the Assets as may be necessary to vest in the Transferee the full benefit thereof together with all relevant documents of title
  - 3.1.5 all books, records and documents used in connection with the DataEase Business and
  - 3.1.6 permit the Transferee to enter into and take possession of the DataEase Business
- 3.2 By 14 October 1991 the Transferee shall arrange for the allotment of the Shares to the shareholders in the Transferor in the same classes as and pro rata to their present registered shareholdings in the Transferor.

4. TITLE

- 4.1 The Transferor shall take all necessary steps to ensure that the Transferee obtains the full benefit of the Business and Assets and shall execute such documents and take such other steps (or procure other necessary parties to do so) as may be necessary or appropriate for vesting in the Transferee all its rights and interests in the Assets
- 4.2 Insofar as the Assets comprise the benefit of contracts which cannot effectively be assigned to the Transferee without the consent of a third party or except by an agreement of novation:
  - 4.2.1 the Transferor and the Transferee shall use all reasonable endeavours to obtain such consent or to procure such novation
  - 4.2.2 nothing in this Agreement shall be deemed to operate as such a transfer or assignment as would give rise to any termination or forfeiture or any benefit, right or interest to any person in any of the Assets
  - 4.2.3 unless and until such consent is obtained or the contracts are novated the Transferor shall hold the same on trust for the Transferee and the Transferee shall for its own benefit and

to the extent that the contracts permit perform on behalf of the Transferor (but at the Transferee's expense) all the obligations of the Transferor arising after Completion and indemnify the Transferor and the Liquidator against all costs, proceedings, claims, demands and expenses which may be incurred by the Transferor or the Liquidator as a result of any act, neglect, default or omission on the part of the Transferee to perform or comply with any such obligation of the Transferor which falls to be performed after Completion

5. EMPLOYEES

5.1 The Transferee shall assume the Contracts of Employment of the Employees and shall indemnify the Transferor and the Liquidator and keep each of them fully and effectively indemnified from and against all actions, costs, claims and demands (whether for redundancy, unfair dismissal or otherwise) made or brought by or on behalf of any Employee or former employee for whatever reason whether by reason of the transfer of the DataEase Business or otherwise and whether under statute contract or otherwise

5.2 The Transferee shall indemnify the Transferor and the Liquidator and keep each of them fully and effectively indemnified in respect of all actions, claims, costs, demands and/or liabilities connected with or arising from the duty of the Transferor (if any) to inform and consult the representatives of independent trade unions in relation to the transfer of the DataEase Business in accordance with Regulation 10 of the Transfer of Undertakings (Protection of Employment) Regulations 1981 and which arise pursuant to Regulation 11 thereof

6. INDEMNITY

6.1 The Transferee shall indemnify the Transferor and the Liquidator and keep each of them fully and effectively indemnified at all times from and against all actions, costs, claims, demands liabilities or expenses in connection with the transfer of the DataEase Business arising after the Transfer Date for whatever reason (including any claim by reason of infringement of third party rights in the course of or after the sale and purchase hereby agreed or by use of the Assets by the Transferee in

breach of any duty or requirement of whatever nature) and all liabilities so arising for taxation duties or imposts of any kind incurred by either or both of the Transferor or the Liquidator in connection with the transfer of the DataEase Business hereby agreed

- 6.2 The Liquidator shall incur no personal liability under, or by virtue of, this Agreement, nor in relation to any related matter or claim howsoever, whenever and wherever arising, and whether such claim is formulated in contract and/or tort or by reference to any other remedy or right, and in whatever jurisdiction or forum. In particular the Liquidator shall not be liable in any deed or document executed with a view, or for the purpose, of putting this agreement into effect whether or not such deed or document so provides in terms and the Liquidator shall be entitled at any time to have any such deeds or documents amended to include an exclusion of personal liability in the above terms.
- 6.3 The Liquidator is agent of the Transferor, save only when by law such agency cannot arise or continue, and he shall incur no liability by reason of his acting in that capacity.
- 6.4 Whether or not acting as agent of the Transferor, the Liquidator shall when acting in the name and on behalf of the Transferor (in accordance with schedule 4 of the Insolvency Act 1986) incur no personal liability by reason of acting in those capacities, nor shall any claim arise otherwise than against the Transferor
- 6.5 In any eventuality whatsoever, and without prejudice to each and every one of the provisions of this Agreement (even in the event those provisions, or any of them, are invalid), any claim of the Transferor, or of any person claiming through under or in relation to the Transferor, shall not in any circumstances exceed the value of the Assets transferred under this Agreement

## 7. VALUE ADDED TAX

The parties shall use all reasonable endeavours to procure that the transfer of the Business under this Agreement is deemed to be a transfer of a business as a going concern for the purposes of Section 33 and Schedule 2 paragraph 7(1)(a) Value Added Tax Act 1983

8. FURTHER ASSURANCE

The parties shall either on Completion or at any time whenever requested execute and do all such other documents, acts, deeds and things as shall be required in order to give effect to the terms of this Agreement

9. BINDING EFFECT

This Agreement shall not be assignable but shall be binding upon and enure for the benefit of each parties' lawful successors in title

10. WHOLE AGREEMENT

This Agreement (together with any documents referred to herein or executed in pursuance hereof) constitutes the whole agreement and understanding between the parties in connection with the subject matter of this Agreement and no variation of this Agreement shall be effective unless made in writing and signed by the parties hereto

11. EFFECT OF COMPLETION

The provisions of this Agreement insofar as the same shall not have been performed at Completion shall remain in full force and effect notwithstanding Completion

12. NOTICES

Any notice required to be given by any party hereto to another shall be deemed validly served by pre-paid recorded delivery letter sent through the post to its address given herein or such other address as may from time to time be notified for this purpose and any notice so served shall be deemed to have been served 48 hours after the time at which it was posted and in proving such service it shall be sufficient to prove that the notice was properly addressed, stamped and posted

13. COSTS

All professional and other costs incurred by the parties in connection with the negotiation preparation and execution of this Agreement and in connection with all matters to which it relates shall be borne by the Transferor

14. PROPER LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and the parties irrevocably submit to the non-exclusive jurisdiction of the English Courts in relation to this Agreement and its subject matter

AS WITNESS the hands of the parties or their duly authorised representatives the day and year first before written

THE SCHEDULE

Exclusions

1. The interest in the Assets which the Transferor sells and the Transferee buys is such right, title and interest as the Transferor may have at the commencement of business on the Transfer Date, and references to the Assets shall mean such right, title and interest.
2. All representations, warranties and conditions, express or implied, and whether statutory or otherwise, are expressly excluded upon, and in relation to, the sale of the Assets. Without limiting those general words of exclusions, there are excluded in particular warranties and conditions as to title, quiet possession, merchantable quality, fitness for any particular, or any, purpose and as to description, either as regards the Assets or any asset the use of which by the Transferee may be permitted hereunder.
3. The Assets are sold in their present state and condition, and whereabouts, and subject to all faults and to any extent that there may exist any lien, distraint, execution or detention, or claims of third

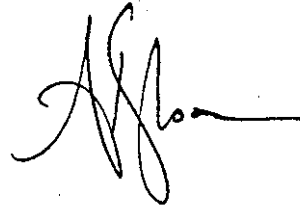
parties over them or in respect of their use, the cost of discharging or compromising any or all of which shall be for the account of the Transferee.

4. The Transferee acknowledges and agrees it has satisfied itself as to the state and condition, and whereabouts of the Assets as to their fitness for such purpose or purposes as the Transferee may intend to use them, and as to their correspondence with any description given or to be implied. It is accepted that no reliance has been placed in this regard on any statement, or silence, of the Transferor or of the Liquidator or of his employees, advisers, valuers, agents, partners or representatives.
5. Any claim of the Transferee, or of any person claiming through it, against the assets of the Transferor shall not take effect otherwise than as a claim by way of pro rata distribution among creditors of equal rank except where the Transferor or the Liquidator is holding any assets on trust for the Transferee.
6. The exclusions of liability in this Schedule shall arise and continue notwithstanding the discharge of the Liquidator after the signing of this agreement, and shall operate as waivers of any claims in tort as well as under the law of contract.
7. Such exclusions shall be in addition to, and not in substitution for and notwithstanding any right of indemnity or relief otherwise available. They shall continue as well after as before completion of this agreement in whole or in part.
8. It is agreed by the parties that the provisions of this Agreement, in particular those in this Schedule, are fair and reasonable in the circumstances of the liquidation of the Transferor and accord with normal practice. This is the case in particular in the light of the fact that:-
  - 8.1 the Transferee has had the opportunity to inspect and investigate the Assets;
  - 8.2 the Transferee is aware of the need to rely on that opportunity by reason of the absence of warranties;

- 8.3 the Transferor is in liquidation and faces the constraints of selling necessarily imposed on it in that circumstance;
- 8.4 the knowledge of the DataEase Business and of the Assets available to the Liquidator and his partners, staff and advisers is necessarily limited.
- 9. The Transferee accepts and undertakes that it will not use any vehicles or plant comprised in the Assets, unless and until they are, in the case of vehicles, roadworthy, and in the case of plant, safe. Nor will the Transferee use them or cause them to be used without reference to all relevant manuals and records.
- 10. The Transferee accepts and agrees that it shall be its responsibility and at its expense, to apply for and obtain all necessary or appropriate licences, legally required consents, permits and rights to use or have the benefit of the Assets and each of them.
- 11. Neither the Transferor nor the Liquidator shall incur any liability to the Transferee by reason of any act or omission, or negligence or default, of any officer or employee, that expression including anyone working under a contract for services as well as of service, of the Transferor whose services may be made available to the Transferee on a sub-contract basis from time to time.
- 12. If any of these provisions is held not to be valid but would be valid if part of the wording were deleted or modified then such provision shall apply with such modification as may be necessary to make it enforceable.
- 13. Nothing in this Agreement shall operate to restrict or affect in any way any right of the Liquidator to be indemnified, or to exercise a lien, whether under the Insolvency Act 1986 or otherwise howsoever.

SIGNED by the Liquidator  
for and on behalf of  
SAPPHIRE INTERNATIONAL PLC  
in Members Voluntary Liquidation  
in the presence of:-

)  
)  
)  
)  
)

A handwritten signature in black ink, appearing to be 'J. H. ...', followed by a horizontal line.

SIGNED by  
for and on behalf of  
~~DATAEASE INTERNATIONAL LIMITED~~  
in the presence of:-

)  
)  
)  
)  
)

SIGNED by the Liquidator  
for and on behalf of  
SAPPHIRE INTERNATIONAL PLC  
in Members Voluntary Liquidation  
in the presence of:-

SIGNED by  
for and on behalf of  
MARCHWELL LIMITED  
in the presence of:-

M.W. Robert