IMAGING DIAGNOSTIC SYSTEMS, INC.  
 DISTRIBUTION AGREEMENT  
  
 This Distribution Agreement ("Agreement") is made and entered into as  
of February 9, 1999, by and between FOCUS Surgical Ltd., a corporation organized  
and existing under the laws of the United Kingdom (the "Distributor"), and  
Imaging Diagnostic Systems, Inc., a corporation organized and existing under the  
laws of the State of Florida ("IDSI").  
  
 WITNESSETH:  
  
 RECITALS  
  
 WHEREAS, IDSI is the owner, and manufacturer of a state of the art  
laser imaging system for detection and analysis of masses in the breast, and  
ancillary equipment as more fully described on Exhibit A hereto and incorporated  
herein (the "Equipment").  
  
 WHEREAS, IDSI is the owner of a certain Patent, Patent pending and  
Patent applications, trade secrets and other proprietary information in  
connection with the Equipment and represents that it has the legal right to  
manufacture, sell and distribute the Equipment, either individually or through  
others;  
  
 WHEREAS, IDSI wishes to grant to Distributor and Distributor wishes to  
obtain the exclusive right to be supplied with, sell, distribute and market the  
Equipment, individually or through others, in Holland, Belgium and Luxembourg  
(the "Territory").  
  
 NOW THEREFORE, in consideration of the mutual covenants and agreements  
herein contained, and for other good and valuable consideration, the parties  
hereto agree as follows:  
  
1. DEFINITIONS. For purposes of this Agreement the following terms shall  
have the definition set forth below.  
  
 (a) EQUIPMENT. The term "Equipment" shall mean and include only those  
products listed on Exhibit A, as amended from time to time. IDSI may add to,  
upgrade or change the Equipment from time to time by providing written notice  
not less than thirty (30) days prior to any such change.  
  
 (b) TERRITORY. The term "Territory" shall mean Holland, Belgium and  
Luxembourg.  
  
2. TERM. This Agreement shall be for a term of one year from the date of  
its execution by Distributor. This Agreement will automatically renew for an  
additional one year term provided that Distributor meets the Performance  
Standards set forth in Section 5. and, provided that Distributor satisfactorily  
fulfills all other terms and conditions of this Agreement.  
  
3. RIGHT TO SELL, DISTRIBUTE AND MARKET. During the term of this  
Agreement and any renewal hereof, IDSI hereby grants to Distributor, as its  
exclusive agent, the right to sell, distribute, individually or through outside  
distributors, and market the Equipment in the Territory. Distributor shall also  
have the right to use the trade names, and trademarks associated with the  
Equipment in connection with the promotion, sale, marketing and distribution of  
the Equipment. Distributor hereby acknowledges and agrees that all trade names  
and trademarks associated with the Equipment are the property of and proprietary  
to IDSI.  
  
4. DISTRIBUTOR'S DUTIES, REPRESENTATIONS AND WARRANTIES. Distributor  
agrees to use its best efforts to sell, market and/or distribute the Equipment  
in the Territory. Distributor agrees that it will perform at its expense the  
following duties to IDSI's reasonable satisfaction  
  
 (a) PROMOTION AND MARKETING.  
  
 (i) Distributor will maintain a qualified sales and  
distribution organization which will provide sales personnel, advertisement,  
marketing and distribution support for the solicitation of customers and  
potential customers in the Territory for the sale of the Equipment.  
  
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 (ii) Any sales promotion, promotional activities, marketing or  
advertising strategies, pamphlets, advertisements, brochures or other  
promotional materials, other than those provided by IDSI, must have the prior  
written approval of IDSI. At least one copy of all Distributor's advertising and  
sales promotion materials in which the Equipment of IDSI is mentioned, must be  
provided for IDSI's review and approval prior to the time of first use. All  
advertisements, pamphlets, brochures or other promotional materials, other than  
those provided by IDSI shall be at the sole cost of the Distributor. The  
Distributor shall have the continuing right to use any promotional materials  
produced by IDSI while this Agreement is in effect. (iii) Distributor, at its  
sole cost, will attend the RSNA and be present in the IDSI booth for at least 4  
hours per day.  
  
 (iv) Distributor will exhibit the CTLM(TM) in at least one  
major exhibit in the Territory or in the countries surrounding the Territory.  
 (b) QUARTERLY REPORTS. Distributor shall promptly prepare and deliver  
to IDSI, within 15 days of the end of each quarter, reports identifying each  
purchaser of Equipment by name, address and designation of type of business and  
the date of sale, model and serial number for each unit of Equipment sold during  
the preceding three months and a forecast of requirements for Equipment for the  
following six months, as well as a description of all training, support, and  
advertising and sales promotional activities undertaken during such period. In  
addition, such Report shall contain a statement of the Distributor' then current  
inventory of spare parts and technical literature available for customer  
service, maintenance and support of the Equipment. The Report shall be certified  
by an officer of the Distributor.  
 (c) GENERAL CONDUCT. Distributor shall at all times conduct its  
business in a manner that reflects favorably on IDSI and its Equipment and will  
not engage in any deceptive, misleading, illegal or unethical business  
practices.  
 (d) SERVICE AND SUPPORT. Distributor's personnel will be required to be  
trained at IDSI headquarter facilities in sales and support techniques for all  
of the Equipment and services. IDSI will not charge for such training, however  
Distributor shall be responsible for all travel, accommodation and other  
expenses. Distributor will provide adequate installation, customer service, and  
maintenance and support for the Equipment in the Territory. Distributor will  
establish and maintain a staff of trained technicians and purchase and maintain  
stock of spare parts and technical literature necessary in order to provide  
adequate installation, customer service, maintenance and support of the  
Equipment in the Territory. Distributor hereby agrees to provide such service  
and support in a prompt and workmanlike manner to any user of the Equipment in  
the Territory.  
 (e) COMPETITIVE PRODUCTS. Distributor will do everything within its  
power to feature, promote, and advertise, as part of its merchandising and sales  
policy, the Equipment and use its best efforts to stimulate and increase  
interest in IDSI's Equipment. IDSI understands that some existing and some new  
customers may request competitors' products. Distributor will use its best  
efforts to sell, market and distribute the IDSI Equipment to such customers.  
Distributor will give IDSI the opportunity to assist with these accounts.  
 (f) CUSTOMER REQUIREMENTS. With a view to maximizing the potential  
market for the Equipment within the Territory, Distributor will report to IDSI  
on a quarterly basis, and assist IDSI in the assessment of the needs and  
requirements of the potential customer base in the Territory with respect to the  
Equipment, including, but not limited to: (i) a rolling twelve-month quantity  
forecast, (ii) quality of the Equipment, (iii) design, functional capability and  
additional features of the Equipment and related modifications, improvements and  
enhancements, and (iv) general market conditions of the Territory.  
 (g) CO-MARKETING PROTECTION. Distributor will maintain confidentiality  
of IDSI supplied prospective customers and not conduct any direct efforts to  
persuade such clients toward competitive equipment or services.  
 (h) PURCHASE ORDERS. Distributor shall forward all orders promptly to  
IDSI. The orders shall state clearly the name of the purchaser, the quantity  
purchased, and the time and place of delivery.  
 (i) DELIVERY. Distributor shall give IDSI at least 180 days prior  
written notice before each shipment is required.  
 (j) EXPENSES AND TAXES. Distributor is an independent contractor, and  
as such shall pay all expenses, including compensation of salesmen, rentals,  
travel, and all taxes, including assessments, which may be made against the  
salary or wages of those directly employed by Distributor.  
 (k) RELATIONSHIP OF PARTIES. Except as set forth herein, Distributor  
shall have no right or authority to create any obligation on the part of IDSI or  
bind IDSI to any agreement.  
 (1) OFFICES. Distributor shall maintain a suitable office in the  
Territory with a telephone and facsimile line suitable for use for the sale of  
the Equipment. The office shall contain a suitable display area where the  
  
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Equipment shall be prominently displayed at all times. This display area or  
another area shall be suitable for and used for the demonstration of and  
training in the use of, the Equipment. The office shall be staffed from 9:00  
a.m. to 5:00 p.m., Monday through Friday, subject to recognized national  
holidays. 5. PERFORMANCE STANDARDS. Prior to the PMA, Distributor will purchase  
one clinical CTLM(TM), at IDSI's cost, for sale to a major medical facility to  
be used for clinical study comparisons. The sale to the medical facility shall  
be approved by IDSI and shall be conditioned upon and provide Distributor with  
the unlimited right, subject to scheduling, to use the Equipment for sale  
demonstrations. Demonstrations of the equipment must be complete and must show  
all features and functions of the Equipment.If the following performance  
standards (the "Minimum Performance Standards") are not met, IDSI will notify  
Distributor, in writing, that it is in default of this Agreement. If Distributor  
does not cure the deficiency within 30 days from receipt of the notice, IDSI, at  
its sole option, may: (i) continue this Agreement on a nonexclusive basis; (ii)  
continue this Agreement on a nonexclusive basis and limit the Territory; or  
(iii) terminate this Agreement. Any such action taken by IDSI shall be without  
prejudice to the rights of the parties with respect to Equipment already  
ordered, sold or delivered. For the purpose of this Agreement Year 1 shall begin  
upon PMA acceptance.  
  
YEAR. NUMBER OF CTLM(TM) UNITS  
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6. PURCHASE OF EQUIPMENT.  
  
 (a) ORDERS. Orders from Distributor for equipment shall be made by  
delivery of a purchase order to IDSI. As soon as practicable after receipt of  
such purchase order, IDSI will: (i) if such order is accepted, return to  
Distributor IDSI's standard form of Sales Acknowledgment (the "Acknowledgment")  
setting forth dates on which delivery will be made, or (ii) notify Distributor  
in writing that such order is rejected. IDSI will use its best efforts to make  
prompt delivery of the Equipment accepted by IDSI on the delivery dates  
specified in the Acknowledgment, F.O.B. Fort Lauderdale, at the time and to the  
entities and destinations listed in the purchase orders. IDSI shall not be  
liable for any failure to deliver, if such failure has been occasioned by fire,  
embargo, strike, failure to secure materials from a usual source of supply, or  
any circumstance beyond IDSI's control, which shall prevent IDSI from making  
deliveries in the normal course of its business. IDSI shall not, however, be  
relieved from making delivery when the causes interfering with deliveries shall  
have been removed. In particular, the Parties acknowledge that IDSI is reliant  
on outside suppliers, which supply the components for its Equipment. Should  
these suppliers fail to produce the required components in a timely manner, than  
IDSI shall be excused from the delivery obligations under this Agreement until  
such time as the components can be manufactured, delivered and installed in the  
Equipment. In no event shall IDSI be responsible for any loss or liability  
suffered by Distributor as a result of delay in delivery of any order.  
 (b) CANCELLATION OF ORDERS. Distributor may cancel any order (or any  
part thereof) for Equipment by giving IDSI written notice of such cancellation  
at least 15 days prior to the shipping date. If Distributor cancels an order for  
Equipment (or any part thereof), Distributor will be subject to a charge based  
upon the purchase price relating to the Equipment so affected as set forth on  
Exhibit B attached hereto. In the event of such cancellation, Distributor will  
have no rights in partially completed goods.  
 (c) RESCHEDULING ORDERS. Distributor may at any time, upon not less  
than thirty (30) days written notice to IDSI, reschedule and/or postpone the  
delivery date relating to an order (or any part thereof) for up to thirty (30)  
days. The postponement of delivery to a date more than thirty (30) days from the  
delivery date specified in the initial order shall be deemed a cancellation of  
such order. DISTRIBUTOR MAY NOT POSTPONE THE DELIVERY DATE MORE THAN ONCE WITH  
RESPECT TO ANY ORDER. If Distributor cancels a previously rescheduled delivery  
of Equipment, the applicable cancellation charges shall be based on the delivery  
date specified in the initial order submitted by Distributor for such delivery.  
  
7. PRICE.  
  
 (a) PURCHASE PRICE. The purchase price for the Equipment to be sold  
hereunder shall initially be as set forth on IDSI's Price List attached hereto  
as Exhibit A, which may be discounted based on the cumulative quantities of such  
Equipment purchased by Distributor during the term hereof or any Additional  
Term. Discounts shall not apply retroactively to prior purchases of Equipment.  
IDSI shall have the sole right to set the price and other terms of the sales of  
  
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the Equipment. IDSI, at its sole discretion, reserves the right to change  
prices, materials used, Equipment line and the components of the Equipment. IDSI  
will provide reasonable notice of any price or other changes to Distributor as  
to not disrupt the sales and distribution of the Equipment. IDSI reserves the  
right to amend Exhibit A with respect to any Additional Term.  
 (b) PRICE CHANGES. IDSI may change the prices to be charged for  
Equipment sold hereunder by amending its published Price List and giving  
Distributor thirty (30) days prior notice. All orders received and accepted by  
IDSI prior to the effective date of the price increase for shipment within  
thirty (30) days of such effective date will be billed at the prices in effect  
at the time of acceptance of the order; provided, however, that if Distributor  
notifies IDSI in writing prior to the effective date of such price increase that  
it quoted the original price in an outstanding bid submitted prior to receipt of  
IDSI's amended Price Lists, any order relating to such bid accepted by IDSI  
prior to the effective date of such price increase for shipment within ninety  
(90) days of such effective date will be billed at the prices in effect at the  
time of acceptance. All other shipments after thirty (30) days (or ninety days,  
if applicable) of such effective date shall be billed at the prices set forth in  
the amended Price List.  
 (c) PAYMENT. All payments hereunder shall be in United States dollars  
and shall be effected by means of confirmed, irrevocable letters of credit on a  
United States bank established, upon execution of this Agreement, to IDSI's  
satisfaction. All exchange, interest, banking, collection and other charges  
shall be the sole expense of the Distributor. Distributor shall have the option  
to wire transfer funds in advance of shipment to IDSI as follows:  
  
 First Union National Bank of Florida, Jacksonville, Florida  
 Account of Imaging Diagnostic Systems, Inc.  
 Account Number 0000000  
 ABA Number 06300002  
  
Shipment will be made upon either receipt of the letter of credit approved by  
IDSI or confirmation that a wire transfer has been received.  
  
8. TERMS AND CONDITIONS OF SALE. This Agreement and all sales of Equipment  
hereunder by IDSI to Distributor shall be subject to IDSI's standard terms and  
conditions of sale as set forth on the applicable Acknowledgment. A copy of  
IDSI's current Standard Terms and Conditions of Sale is attached hereto as  
Exhibit D and incorporated herein. To the extent that IDSI's standard terms and  
conditions are inconsistent with express provisions of this Agreement, the  
provisions of this Agreement shall prevail. Distributor agrees that although it  
may use its standard forms for others or other notices hereunder, said standard  
forms will be governed by the terms and conditions of this Agreement and any  
applicable Acknowledgment shall have no force and effect. Distributor agrees to  
place the following legend on its standard forms submitted to IDSI hereunder:  
  
"NOTWITHSTANDING ANY OTHER TERMS AND CONDITIONS APPEARING HEREON, THIS PURCHASE  
SHALL BE GOVERNED BY THE TERMS AND CONDITIONS OF SALE SET FORTH IN THE IDSI  
DISTRIBUTION AGREEMENT."  
  
9. PRODUCT WARRANTY.  
  
 (a) DISTRIBUTOR WARRANTY. The sole warranties provided by IDSI to  
Distributor with respect to the Equipment are those contained in IDSI's Standard  
Terms and Conditions. Notwithstanding the foregoing, with respect to Equipment  
for which IDSI is not the original manufacturer, the sole warranties provided by  
IDSI to Distributor shall be equivalent to the sole warranties provided by the  
original manufacturer to IDSI (current original manufacturer warranties and the  
Equipment to which they pertain are set forth on Exhibit A).  
  
IDSI DISCLAIMS ALL OTHER WARRANTIES, WARRANTS OF TITLE, MERCHANTABILITY, AND  
FITNESS FOR A PARTICULAR PURPOSE AND AGAINST INFRINGEMENT UPON THE RIGHTFUL  
CLAIM OF ANY THIRD PERSON. IDSI DISCLAIMS LIABILITY FOR ALL CONSEQUENTIAL  
DAMAGES IN ANY FORM, EVEN THOUGH IDSI MAY HAVE BEEN ADVISED OR MAY OTHERWISE  
KNOW OF THE POSSIBILITY OF SUCH DAMAGES.  
  
Nothing contained in this warranty shall make IDSI liable beyond the express  
limitations of this warranty for loss or damage to the business of Distributor,  
including any claims as to breach of contract, lost receipts or profits,  
business interruptions or other tangible business loss.  
  
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 (b) END-USER WARRANTY. Distributor is hereby authorized, subject to the  
succeeding sentence, to offer the warranties set forth in Section 9 (a) to  
customers to whom it sells the Equipment, and IDSI agrees to honor such  
warranties. Distributor acknowledges and agrees that the warranty period set  
forth in the Acknowledgment commences, with respect to both Distributor and its  
customers, on the date of delivery to Customer provided however, in no event  
shall the warranty period exceed fifteen months. In the event that the  
Distributor extends or otherwise represents to a customer that the warranties  
are more extensive or encompassing than those set forth herein, the Distributor  
shall indemnify IDSI for any warranty claims made by a customer based on  
Distributor's representations.  
  
10. SUBLICENSES.  
  
 (a) PROGRAMS SUBLICENSE. Distributor is authorized to grant  
restrictive, nonexclusive, nontransferable sublicenses to customers to use the  
Programs (as defined in the Acknowledgment) or any portion thereof, provided  
that each such Customer (sublicensee) enters into an agreement with Distributor  
pursuant to which the sublicensee expressly accepts and agrees to the terms and  
conditions of the license set forth in the Acknowledgment. In addition to any  
other remedy IDSI may have, IDSI reserves the right to terminate any  
sublicensee's sublicense if said sublicensee fails to comply with any term or  
condition of any such sublicense. Any sublicense granted by Distributor to a  
sublicense hereunder shall also terminate and such sublicense shall cease to use  
and return the Programs.  
 (b) PROPRIETARY TECHNICAL MATERIALS SUBLICENSE. Distributor is  
authorized to grant restrictive, nonexclusive, nontransferable sublicenses to  
customers to use the Proprietary Technical Materials or any portion thereof,  
provided that each such customer (sublicensee) enters into an agreement with  
Distributor pursuant to which the sublicensee expressly accepts and agrees to  
the terms and conditions of the license set forth in the Acknowledgment. In  
addition to any other remedy IDSI may have, IDSI reserves the right to terminate  
any sublicensee's sublicense if said sublicensee fails to comply with any term  
or condition of any such sublicense. Any sublicense granted by Distributor to a  
sublicense hereunder shall also terminate and such sublicense shall cease to use  
and return the Proprietary Technical Materials.  
  
11. MAINTENANCE.  
  
 (a) DISTRIBUTOR'S OBLIGATION TO PROVIDE SERVICE. Distributor agrees  
that IDSI shall have no obligation to maintain the Equipment except for the  
warranty obligations specified in Section 9. Distributor acknowledges and agrees  
that it will perform, at no expense to IDSI, maintenance and repair of Equipment  
sold or leased to the Distributors customers  
 (b) CONSIGNMENT OF SPARES PARTS. IDSI may, at its sole discretion,  
consign to Distributor, from time to time, as it may deem necessary, spare parts  
to support warranty repair service in Distributor's Territory. The title to such  
parts shall at all times remain with IDSI and Distributor shall have no right,  
title or interest therein until such time as payment is made to IDSI as set  
forth below. In the event that such parts used for non-warranty repair service,  
Distributor will purchase the part used or to be used for non-warranty repair  
services at prices listed in Exhibit A, as may be amended from time to time.  
Distributor will provide IDSI with a monthly report, not later than 15 days  
after the first day of each month, which will indicate the Customers name,  
address and phone number, the work performed, the parts used and whether the  
repair was under warranty. The report shall also include a total dollar amount  
for parts used for non-warranty repair and be accompanied by a check for full  
payment therefor.  
  
12. TERMINATION.  
  
 (a) Either party may, by written notice to the other party, terminate  
this Agreement upon the occurrence of any one or more of the following events:  
  
 (i) Upon the failure of the other party to pay any monies when  
due hereunder, if such default continues for five (5) business days or more  
after written notice to the defaulting party;  
 (ii) Upon material failure of a party to observe, keep or  
perform any of the covenants, terms or conditions herein, if such default  
continues for thirty (30) business days or more after written notice to the  
defaulting party;  
  
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 (iii) In the event: (A) a party makes a general assignment for  
the benefit of creditors or transfers all or a substantial portion of its  
assets; (B) a receiver is appointed and not discharged within 30 days of  
appointment, or (C) the other party has become insolvent.  
  
 (b) IDSI may, by written notice to Distributor, terminate this  
Agreement upon occurrence of any one more of the following events:  
 (i) In the event that Distributor solicits orders for  
Equipment outside its Territory;   
 (ii) In the event of any dispute, disagreement or controversy  
between or among the owners, partners, managers, officers or stockholders of  
Distributor which in the opinion of IDSI adversely affects the ownership,  
operation, management, business or interests of Distributor, or in the event of  
a change in control or majority ownership of Distributor; (iii) If Distributor  
ceases to function as a going concern or to conduct its operations in the normal  
course of business, or  
  
 (c) If Distributor fails to meet the Minimum Performance Standards set  
forth in Section 5, IDSI shall have the right, upon 30 days written notice to  
the Distributor, to terminate this Agreement. Distributor shall have the right  
to cure the deficiency within such 30-day period. If Distributor does not cure  
the Deficiency within such 30-day period, IDSI may terminate this Agreement on  
the 30th day.  
 (d) Upon termination or expiration of this Agreement, for any reason  
Distributor shall discontinue the use of IDSI's name, trademarks, trade names,  
labels, copyrights, and other advertising media and shall remove all signs and  
displays relating thereto: and will no longer identify itself as a distributor  
of IDSI or indicate, in any way, that it is associated with IDSI. Distributor  
shall promptly return to IDSI all marketing and selling materials, all manuals,  
all technical data, all other documents and copies thereof previously supplied  
by IDSI and all spare parts consigned to Distributor by IDSI.  
 (e) Upon termination or expiration of this Agreement, for any reason,  
IDSI shall have the option to repurchase its Equipment and spare parts then in  
possession of the Distributor, at prices originally billed to the Distributor if  
the Equipment and spare parts are new and at an adjusted price if the Equipment  
is used, and with deductions for money due or to become due to IDSI under this  
Agreement. As to any of the IDSI's Equipment or spare parts not repurchased by  
IDSI, Distributor shall have the right to dispose of them in the regular course  
of its business and for this purpose only, the restrictions of preceding sub  
paragraph shall be deferred until three months after the termination of this  
Agreement.  
 (f) It is expressly understood and agreed that the rights of  
termination as provided in this Agreement are absolute and that both parties  
hereto have considered the costs and expenditures associated with the  
preparation and performance of this Agreement and the possible losses and  
damages which may be incurred by both parties in the event of its termination.  
The parties hereto acknowledge and agree, by execution hereof that they have  
entered into this Agreement with full knowledge of such possibilities, and  
except as provided herein neither party hereto shall be responsible to the other  
for compensation, damages, losses, or otherwise, for termination of this  
Agreement as set forth above.  
  
13. TRADEMARKS: MARKINGS.  
  
 (a) TRADEMARKS AND NAMES. Distributor is hereby granted permission to  
use during the term of this Agreement, and any renewal hereof, the trademarks  
and trade names used by IDSI in connection with the Equipment. Such permission  
is expressly limited to uses by Distributor necessary to performance of  
Distributor's obligations under this Agreement, and Distributor hereby admits  
and recognizes IDSI's exclusive ownership of such marks and names and the renown  
of IDSI's marks and names, both worldwide and specifically in the Territory.  
Distributor agrees not to take any action, inconsistent with such ownership and  
further agrees to take any action, including without limitation the conduct of  
legal proceedings, which IDSI deems necessary to establish and preserve IDSI's  
exclusive rights in and to its trademarks and trade names. Reproductions of  
IDSI'S trademarks, logos, symbols, etc. shall be true reproductions and shall be  
done photographically, in a manner, which enhances the reputation and status of  
IDSI.  
 (b) MARKINGS. Distributor will not remove or make or permit any  
alterations in any labels or other identifying markings placed by IDSI on any of  
the Equipment without written consent by IDSI.  
 (c) NO ADDITIONAL RIGHTS. No rights to manufacture, alter, or use the  
Equipment for purposes other than those contained herein are granted by this  
Agreement. Moreover, no licenses are granted or implied by this Agreement under  
  
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any patents owned or controlled by IDSI or under which IDSI has a right, except  
the right to sell, market and distribute IDSI's Equipment, as contemplated  
herein, during the term of this Agreement.  
  
14. INDEMNIFICATION. Distributor shall indemnify and hold harmless  
IDSI, its officers, directors, employees, or agents (collectively referred to in  
this Section 14 as "IDSI") for damages or expenses resulting from any claim,  
suit or proceeding brought against IDSI, with regard to any untrue statement or  
alleged untrue statement, misrepresentation or alleged misrepresentations,  
promise or agreements made or allegedly made by Distributor or its  
sub-distributors or arising from the marketing, sale or distribution of the  
Product by Distributor or its sub-distributors. This provision shall not apply  
to Distributor or any person controlling Distributor in respect of any losses,  
claims, damages, liabilities or actions arising out of or based upon any untrue  
statement or alleged untrue statement, misrepresentation or alleged  
misrepresentations, promise or agreement made or allegedly made by Distributor  
or arising from the marketing, sale or distribution of the Product by  
Distributor, if such untrue statement or alleged untrue statement,  
misrepresentation or alleged misrepresentations, promise or agreement was made  
in reliance upon information furnished in writing to Distributor by IDSI  
specifically for use in connection with the sale, marketing or distribution of  
the Equipment. IDSI agrees that Distributor has the right to defend, or at its  
option to settle, and Distributor agrees, at its own expense, to defend or at  
its option to settle, any claim, suit or proceeding brought against IDSI.  
Distributor agrees to pay any costs of litigation, investigation or defense  
incurred by IDSI, including reasonable attorney fees, and final judgement,  
entered against IDSI on such issue in any such suit or proceeding. Distributor  
shall be relieved of the foregoing obligations unless IDSI notifies Distributor  
in writing, within fifteen days of receipt of notification of such suit, claim  
or proceeding, and gives Distributor authority to proceed as contemplated  
herein.  
  
15. RISK OF LOSS. Title to the Equipment shipped shall pass upon shipping,  
subject to full payment. Distributor assumes the risk of loss and damage of the  
Equipment in transit from IDSI's shipping point to the point of destination.  
  
16. COMPLIANCE WITH LAWS. Distributor shall comply with all material  
applicable present and future federal, state, county, local and foreign laws,  
ordinances and regulations relating to the importation and sale of the  
Equipment. Distributor will take all steps necessary to obtain the proper import  
licenses, if applicable and Distributor shall be solely responsible for any  
excise tax, duties or other costs for the importation of the Equipment.  
  
17. NON-CIRCUMVENTION AGREEMENT. The respective Parties involved in  
this Agreement, agree not to circumvent each other. The Parties agree that they  
will not make any contact, directly or indirectly, written, oral, electronic or  
by any medium of contact whatsoever, with any Sources without the express  
written consent of the other introducing Party. Each of the listed Parties  
hereto, accepts and understands that any overt or covert action of  
circumvention, or unauthorized disclosure shall constitute a breach of trust and  
shall be considered a breach of the terms and conditions of this agreement. Such  
action shall be subject to judicial action, and recompense.  
  
If either Party shall bring an action to recover payment or other compensation  
pursuant to the terms of this Agreement, the prevailing Party shall be entitled  
to reasonable attorney's fees and expenses as may be awarded, including legal  
fees and costs, and recovery for liquidated damages and punitive damages as may  
be awarded by and through any legal process or jurisdiction.  
  
For the purposes of this Section 17, the term "Party" or "Parties" shall be  
considered to include and be binding upon the parties to this Agreement, any  
individual, entity or entities, including but not limited to, associates,  
partners, assigns, spouses, employees, agents, principals, clients,  
corporations, companies, subsidiaries, divisions, affiliated, associations,  
collateral providers or the like, which the Parties hereto may now or in the  
future be associated with during the term of this Agreement and any renewal  
thereof.  
  
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For the purposes of this Section 17, the term "Sources" shall be considered to  
include any business opportunity, principal, individual, entity or entities,  
including but not limited to, customers and distributors, their associates,  
partners, assigns, spouses, employees, agents, principals, clients,  
corporations, companies, subsidiaries, divisions, affiliated partnerships,  
associations or the like, introduced to or brought to the attention of a Party  
to the other Party during the term of this Agreement or any renewal thereof.  
  
Distributor acknowledges and agrees that no separate or additional payment will  
be required to be made to it in consideration of its undertakings in this  
Section 17.  
  
18. NO COPYING. Without the prior written consent of IDSI, Distributor shall  
refrain from copying, reverse engineering, disassembling, translating or  
modifying the Equipment for its benefit, or granting any other person or entity  
the right to do so.  
  
19. NOTICES. Any notice required or permitted by this Agreement shall be in  
writing and shall be delivered by U.S. Certified Mail, return receipt requested,  
or by special messenger service with receipt (such as Federal Express), by  
facsimile delivery or by hand, to the parties at the following addresses or such  
substitute person or address of which notice is given in like manner:  
  
Imaging Diagnostics Systems, Inc.  
0000 XX 00 Xxxxx  
Xxxxxxxxxx, Xxxxxxx 00000  
Phone (954). 000-0000  
Fax (.954).  
000-0000  
  
Distributor  
Focus  
0 Xxxxxxxx Xxxxxxxx  
Xxxxxx XX0 0XX  
Phone x00 0 000 000 0000  
Fax x00 0 000 000 0000  
  
or to such other address as either of them, by notice to the other may designate  
from time to time. The transmission confirmation receipt from the sender's  
facsimile machine shall be conclusive evidence of successful facsimile delivery.  
Time shall be counted to, or from, as the case may be, the delivery in person or  
by mailing.  
  
20. GOVERNING LAW. VENUE AND ARBITRATION. This Agreement shall be  
deemed to be executed in the State of Florida and governed by the laws of the  
State of Florida. Any controversy or claim arising out of or relating to this  
Agreement or to the interpretation, breach or enforcement thereof, except a  
claim for injunctive relief, shall be submitted to an arbitrator and settled by  
arbitration in Broward County, Florida, in accordance with the rules then  
obtaining of the American Arbitration Association. Any award made by the  
arbitrator shall be final, binding and conclusive on all parties hereto for all  
purposes, and judgement may be entered thereon in any court having jurisdiction  
thereof. Nothing contained herein shall serve to prohibit the parties from  
seeking injunctive relief in a court of competent jurisdiction.  
  
21. GENERAL.  
  
 (a) INDEPENDENT CONTRACTOR. Distributor will act as an independent  
contractor under the terms of this Agreement and not an agent or legal  
representative of IDSI for any purpose, whatsoever, and, except for the  
extension of the warranty set forth in Section 9, Distributor has no right or  
authority to assume or create any obligation of any kind, express or implied, on  
behalf of IDSI to Distributor's customers or to any other person.  
 (b) PRODUCT CHANGES. IDSI reserves the right to make design and other  
modifications in the Equipment at any time but shall not be obligated to  
implement such modifications in Equipment that has previously been delivered.  
 (c) CONFIDENTIAL INFORMATION. Distributor agrees not to disclose to any  
person outside of its employ, and not to use for any purpose other than to  
fulfill its obligations under this Agreement, any information which is disclosed  
to Distributor by IDSI and which is not otherwise publicly available.  
Distributor agrees to take all preventative measures and precautions to guard  
against and prevent any use or disclosure of such confidential information by  
its partners, employees, agents, or other persons consistent with the intent of  
this paragraph. Distributor further agrees not to disclose to IDSI any  
information, which Distributor deems to be confidential, and it is understood  
that any information received by IDSI will not be of a confidential nature.  
 (d) WAIVER AND AMENDMENT. Any party shall not construe the waiver by  
any party to this Agreement of a breach of any provision hereof by any other  
party as a waiver of any subsequent breach. The failure by either party at any  
  
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time to enforce the provisions of this Agreement, or to exercise any election or  
option provided herein, shall in no way be construed as a waiver of such  
provisions or options, nor in any way to affect the validity of this Agreement  
or any part thereof, or the right of either party thereafter to enforce each and  
every such provision. No provision of this Agreement may be terminated, amended,  
supplemented, waived or modified other than by an instrument in writing signed  
by the party against whom the enforcement of the termination, amendment,  
supplement, waiver or modification is sought.  
 (e) NO OTHER WARRANTY OR REPRESENTATION. Distributor hereby  
acknowledges that it has not entered into this Agreement in reliance upon any  
warranty or representation by any person or entity except for the warranties or  
representations specifically set forth herein.  
 (f) LANGUAGE. This Agreement is in the English language only, which  
language shall be controlling in all respects, and all versions hereof in any  
other language shall be for accommodation only and shall not be binding upon the  
parties hereto. All communications and materials made or given pursuant to this  
Agreement, including without limitation any operations and maintenance manuals,  
shall be in the English language. IDSI shall have no obligations or liabilities  
to Distributor or any other person for loss of profits, loss of use or  
incidental, special or consequential damages, even if IDSI has been advised of  
the possibility thereof, arising out of or in connection with the translation  
from English into any other language of any materials made or given pursuant to  
this Agreement, including without limitation any operations and maintenance  
manuals.  
 (g) LICENSES AND PERMITS. IDSI will use its best efforts to secure all  
export licenses and permits required by the United States government, and  
Distributor will secure all import licenses and permits required in connection  
with the importation, marketing, sale and distribution of the Equipment. Each  
party will furnish any information and assistance reasonably required by the  
other party in connection with securing any such licenses and permits.  
 (h) IMPORT/EXPORT CONTROLS. IDSI's obligations hereunder shall be at  
all times subject to the export administration and control laws and regulations  
of the United States Government, and any amendments thereof and the import  
administration and control laws and regulations of the Territory, and any  
amendments thereof. Distributor shall provide IDSI with any written assurances  
it may reasonably request with respect to Distributor's compliance with such  
laws or regulations. Distributor agrees that, with respect to the import, resale  
or any other disposition of Equipment and any printed commercial and technical  
data and information supplied by IDSI, Distributor will comply fully with the  
import/export administration and control laws and regulations of the United  
States of America and the Territory, and any amendments of such laws and  
regulations.  
 (i) COMPLIANCE WITH LAWS. IDSI represents that, with respect to the  
production of Equipment to be furnished hereunder, IDSI will fully comply with  
all applicable laws of the United States and the State of Florida. Distributor  
represents that, with respect to the purchase, marketing, sale and distribution  
of the Equipment furnished hereunder, Distributor will comply with all  
applicable laws of the Territory.  
 (j) ENTIRE AGREEMENT. This Agreement constitutes the entire agreement  
and understanding between the parties concerning the subject matter hereof and  
supersedes all prior agreements, negotiations and understandings of the parties  
with respect thereto. No representation, promise, modification or amendments  
shall be binding upon either party as a warranty or otherwise, unless in writing  
and signed on behalf of each party by a duly authorized representative. Although  
Distributor may use its standard purchase order form to give any order or other  
notice provided for hereunder, said order or notice will be governed by the  
terms and conditions of this Agreement any applicable Acknowledgment, and any  
term or condition set forth in any such standard form which is inconsistent with  
or in addition to the terms and conditions of this Agreement and any applicable  
Acknowledgment shall have no force or effort.  
 (k) ATTORNEY'S FEES. In the event any action is commenced with regard  
to this Agreement, the prevailing party shall be entitled to reasonable  
attorney's fees, costs and expenses.  
 (l) SEVERABILITY CLAUSE. In the event any parts of this Agreement are  
found to be void, the remaining provisions of this Agreement shall nevertheless  
be binding with the same effect as though the void parts were deleted.  
 (m) SUCCESSORS. Subject to the provisions of this Agreement, this  
Agreement shall be binding upon and inure to the benefit of the parties hereto  
and their respective successors and assigns.  
 (n) SECTION AND PARAGRAPH HEADINGS. The section and paragraph headings  
in this Agreement are for reference purposes only and shall not affect the  
meaning or interpretation of this Agreement.  
 (o) COUNTERPARTS. This Agreement may be executed in one or more  
counterparts, each of which shall be deemed an original but all of which  
together shall constitute one and the same instrument. The execution of this  
  
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Agreement may be by actual or facsimile signature, provided however that  
original signatures must be provided within ten days from the date of signing.  
 (p) FURTHER ASSURANCES. The Parties hereto agree to execute and deliver  
from time to time at the other Party's request, without further consideration,  
such additional documents and to take such other action necessary to consummate  
the transactions contemplated herein.  
 (q) ASSIGNMENT. This Agreement may be assigned by IDSI. Distributor  
will not be permitted to assign this Agreement with out the prior written  
consent of IDSI.  
  
 IN WITNESS WHEREOF, the parties have executed this Agreement on the day  
and year set forth below.  
  
Dated: February 9, 1999  
  
In the presence of: Imaging Diagnostic Systems, Inc.  
  
/s/ Xxxxx Xxxxxxxx BY: /s/ Xxxxx Xxxxxx, President  
  
  
Dated: February 9, 1999  
In the presence of: Focus Surgical LTD.  
  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ BY: /s/ Xxxxxx Xxxxxxx, Managing Director  
  
  
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 IMAGING DIAGNOSTIC SYSTEMS, INC.  
 STANDARD TERMS AND CONDITIONS  
  
1. PAYMENT  
 Payments hereunder shall be made through a confirmed, irrevocable  
letters of credit in U.S. dollars, opened by DISTRIBUTOR and advised through  
First Union National Bank of Florida, in the full amount of the Purchase Price  
for all Equipment, including an amount estimated for freight and insurance.  
DISTRIBUTOR shall open the letter of credit upon issuance of any purchase order.  
COMPANY shall receive disbursement under the letter of credit upon presentment  
to the issuing/confirming bank of (i) an airway xxxx, xxxx of lading or similar  
certificate issued by the transportation company, and (ii) a copy of COMPANY's  
invoice for goods shipped (including freight and insurance). No other documents  
shall be required. All interest, banking, collection, or other charges shall be  
at the sole expense of DISTRIBUTOR. Payment shall be made without regard to  
whether DISTRIBUTOR has made or may make any inspection or use of the Equipment.  
  
 Each shipment shall be treated as a separate transaction, but in the  
event of any default of DISTRIBUTOR, COMPANY may decline to make further  
shipments without in any way affecting its rights hereunder. If, despite any  
default by DISTRIBUTOR, COMPANY elects to continue to make shipments, COMPANY's  
action shall not constitute a waiver of any default by DISTRIBUTOR or in any way  
effect COMPANY's legal remedies for any such default.  
  
2. TAXES  
 The purchase price is exclusive of any sales, use or privilege tax,  
customs or import duty, excise tax based on gross revenue or any similar tax or  
charge which might be levied as a result of the production, sale or shipment of  
any Equipment or the use of any Equipment by DISTRIBUTOR. DISTRIBUTOR agrees to  
pay and otherwise be fully responsible for any such taxes (except for taxes  
based on the net income of COMPANY). Any personal property taxes assessable on  
the Equipment after delivery shall be borne by DISTRIBUTOR. COMPANY shall have  
the right, but shall not be obligated, to pay any such taxes directly, in which  
event DISTRIBUTOR shall promptly reimburse COMPANY in the amount thereof upon  
presentation by COMPANY of evidence of payment.  
  
3. DELIVERY  
 The Equipment shall be delivered to DISTRIBUTOR F.O.B. COMPANY's plant  
in Sunrise, Florida. Delivery of the Equipment to a common carrier shall be  
deemed a satisfactory delivery by COMPANY to DISTRIBUTOR. DISTRIBUTOR agrees to  
pay all freight, insurance, packing and other transportation charges related to  
said delivery. COMPANY shall have the right, but shall not be obligated, to  
prepay such charges, in which event DISTRIBUTOR shall promptly reimburse COMPANY  
in the amount thereof upon presentation by COMPANY of evidence of payment. In  
connection with the delivery of the Equipment, DISTRIBUTOR may designate in  
writing, not less than ten (10) business days prior to the shipment date, the  
carrier for shipment and the amount of insurance and nature of coverage. If  
DISTRIBUTOR fails to so designate any or all such items, COMPANY, at its  
discretion, may specify any item not so designated. COMPANY shall select, at its  
discretion, the types, amount of crating, and the carrier of any insurance. The  
purchase price does not include any maintenance, installation, or training.  
  
4. RISK OF LOSS; SECURITY INTEREST  
 Title and risk of loss or damage to the Equipment shall pass to  
DISTRIBUTOR upon delivery by COMPANY to a common carrier for shipment.  
  
 COMPANY retains a security interest in the Equipment, any replacements  
of the Equipment, and all proceeds of the Equipment or its replacements,  
including, but not limited to, insurance proceeds, to secure performance of all  
Distributor's payment obligations under this Agreement. If DISTRIBUTOR shall  
fail to pay any portion of the purchase price or any related charges when due,  
COMPANY shall have the right, without liability, to repossess the Equipment and  
to avail itself of any legal remedy. DISTRIBUTOR agrees to execute and deliver  
such financing statements and other documentation as COMPANY may reasonably  
request to perfect and protect COMPANY's interests in the Equipment.  
  
5. PROGRAMS  
 As used herein, the word "Programs" shall include COMPANY's Firmware  
and Software, each of which is defined as follows:  
  
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 (a) "Firmware" shall mean all fixed electrical circuits (including  
printed circuit boards and chips embodying such circuits) placed in the  
Equipment by COMPANY that performs predetermined programs and routines in the  
Equipment in response to specific inputs.  
  
 (b) "Software" shall mean all alterable programs and routines for the  
internal operation of the Equipment placed in the Equipment by COMPANY, or  
furnished with or for the Equipment by COMPANY.  
  
6. PROGRAMS LICENSE  
 COMPANY hereby grants to DISTRIBUTOR a nonexclusive license to use and  
sublicense to customers the Programs solely in connection with the sale and use  
of the Equipment as contemplated under this Agreement. Any grant of a sublicense  
of Programs to a Customer shall be by written sublicense agreement which  
provides for all terms, conditions, restrictions and requirements as to the  
ownership, use and confidentiality of such Programs as set forth in, and imposed  
upon DISTRIBUTOR by, this Agreement. DISTRIBUTOR shall obtain COMPANY'S prior  
approval of the form of sublicense agreement with Customers. COMPANY shall not  
assign, transfer, or sublicense any Programs to any third party other than as  
contemplated in this Agreement, without the express written consent of COMPANY.  
Notwithstanding any contrary provision in this or in any other agreement between  
COMPANY and DISTRIBUTOR, COMPANY shall retain all right, title and interest in  
and to any Programs provided licensed to DISTRIBUTOR or sublicensed to customers  
in connection with the sale and use of the Equipment being acquired by  
DISTRIBUTOR or customers hereunder. DISTRIBUTOR agrees to maintain the  
confidentiality of the Programs and to instruct and obligate its employees and  
agents to do the same.  
  
 Without limiting the generality of the foregoing, DISTRIBUTOR shall not  
reproduce or modify all or any portion of the Programs, nor shall DISTRIBUTOR  
disclose, sell, sublicense or otherwise transfer or make available all or any  
portion of the Programs to any third party, without the prior express written  
consent of COMPANY.  
  
 In addition to any other remedy COMPANY may have, COMPANY reserves the  
right to terminate Distributor's license or customers sublicense, if DISTRIBUTOR  
or customer fails to comply with any term or condition hereof. Distributor's  
license or customer's sublicense, as the case may be, granted pursuant to this  
paragraph 6 shall also terminate at such time as DISTRIBUTOR shall permanently  
cease to use the Equipment. DISTRIBUTOR agrees, upon notice from COMPANY of any  
termination of the license granted pursuant to this paragraph 6 and, in  
accordance with any more specific directions from COMPANY, to deliver  
immediately to COMPANY all Software and copies thereof, and all Firmware chips  
and printed circuit boards and other tangible items and materials in the  
possession or custody of DISTRIBUTOR embodying the Programs.  
  
7. PROPRIETARY TECHNICAL MATERIALS  
 Documentation, maintenance manuals and drawings relating to the  
Equipment or the Programs (collectively, "Proprietary Technical Material") that  
COMPANY may furnish shall be in DISTRIBUTOR's or customer's possession pursuant  
only to a restrictive, nonexclusive license under which DISTRIBUTOR or customer  
may use such Proprietary Technical Materials solely for the purpose of  
operating, servicing and repairing the Equipment and the Programs and for no  
other purpose. One installation, maintenance and operation manual will be  
provided with each system purchased hereunder. DISTRIBUTOR agrees to maintain  
the confidentially of all Proprietary Technical Materials and to instruct and  
obligate its employees and agents to do the same. Without limiting the  
generality of the foregoing, DISTRIBUTOR may not reproduce or copy any  
Proprietary Technical Material or transfer, assign, sublicense, loan, disclose  
or otherwise make available all or any portion of such Proprietary Technical  
Materials to any other person or entity, without prior express written consent  
of COMPANY. Title to and ownership of the Proprietary Technical Materials shall  
at all time remain in COMPANY. In addition to any other remedy COMPANY may have,  
COMPANY reserves the right to terminate DISTRIBUTOR's license granted pursuant  
to this paragraph 7 if DISTRIBUTOR fails to comply with any term or condition  
hereof. DISTRIBUTOR's license granted pursuant to this paragraph 7 shall also  
terminate at such time as DISTRIBUTOR shall permanently cease to use the  
Equipment. DISTRIBUTOR agrees, upon notice from COMPANY of any termination of  
the license granted pursuant to this paragraph 7 and, in accordance with any  
more specific directions from COMPANY, to deliver immediately to COMPANY all  
Proprietary Technical Material and all copies thereof.  
  
8. LIMITED WARRANTY  
 With respect to Equipment for which COMPANY is the original Company,  
COMPANY warrants to DISTRIBUTOR that, for a period of twelve (12) months from  
installation each item of Equipment will conform in all materials and  
  
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workmanship. COMPANY's obligation under this warranty is limited to, at  
COMPANY's option, repairing or replacing, at COMPANY's facility or at the  
location of the Equipment, any Equipment or parts thereof that do not conform to  
this warranty. DISTRIBUTOR shall promptly notify COMPANY in writing of any  
alleged defects in the Equipment and specifically describe the problem. COMPANY  
shall have no obligations under this warranty with respect to any defect unless  
it receives notice and a description of such defect no later than ten (10)  
working days following the expiration of the warranty period. Upon receipt of  
such notice, COMPANY shall either advise DISTRIBUTOR that warranty service shall  
be provided at the location of the Equipment or shall instruct DISTRIBUTOR as to  
the part or parts of the Equipment that DISTRIBUTOR shall ship back to COMPANY  
for repair or replacement. COMPANY will pay the costs of transporting Equipment  
to COMPANY which to have been defective; otherwise, DISTRIBUTOR shall pay all  
costs of transportation in both directions.  
  
 With respect to Equipment for which COMPANY is the original Company,  
COMPANY warrants to DISTRIBUTOR that the Programs provided to DISTRIBUTOR in  
connection with such Equipment will conform to and perform in accordance with  
the then existing Equipment documentation for a period of one (1) year from  
shipment of the last item of Equipment in conjunction with which the Programs  
are to be used if properly used on the Equipment. COMPANY's obligation under  
this warranty is limited to, at COMPANY's option, correcting, repairing or  
replacing, at COMPANY's option, at COMPANY's facility or the location of the  
Programs, any Program or parts thereof that do not conform to this warranty.  
  
 With respect to Equipment for which COMPANY is not the original Company  
and the Programs provided to DISTRIBUTOR in connection with such Equipment, the  
sole warranties provided by COMPANY to DISTRIBUTOR shall be equivalent to the  
sole warranties provided by the original Company to COMPANY (current original  
Company warranties and the identification of Equipment to which they pertain  
shall be provided to DISTRIBUTOR upon request).  
  
 The foregoing warranties shall not apply to any Equipment or Programs  
which have been (i) used or operated in a manner inconsistent with the license  
granted by COMPANY, (ii) modified or repaired by anyone other than COMPANY  
personnel or COMPANY's authorized service representatives in a manner which  
adversely affects their operations or reliability, or (iii) damaged because of  
accident, neglect or misuse by anyone other than COMPANY personnel, failure or  
surge of electrical power, air conditioning or humidity control, transportation,  
or other than ordinary use.  
  
THE FOREGOING WARRANTIES APPLY ONLY TO THE ORIGINAL PURCHASER AND ARE IN LIEU OF  
ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT  
LIMITATION IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY UPON THE RIGHTFUL CLAIM  
OF ANY THIRD PERSON.  
  
9. LIMITATION OF LIABILITY  
 COMPANY shall in no event have obligations or liabilities to  
DISTRIBUTOR or any other person for loss of profits, loss of use or incidental,  
special or consequential damages, whether based on contract, tort (including  
negligence), strict liability, or any other theory or form of action, even if  
COMPANY has been advised of the possibility thereof, arising out of, or in  
connection with, the sale, delivery, use, repair or performance of the Equipment  
or the Programs, or any failure or delay in connection with any of the  
foregoing. Without limiting the generality of the preceding sentence, COMPANY  
shall not be liable for personal injury or property damage. In no event shall  
the liability of COMPANY arising in connection with any Equipment sold hereunder  
exceed the actual amount paid by DISTRIBUTOR to COMPANY for Equipment delivered  
hereunder.  
  
10. PATENT AND TRADEMARK INDEMNITY  
 COMPANY will defend, at its own expense, any suit or proceeding against  
DISTRIBUTOR in a court of the United States for the direct infringement of  
United States patents and trademarks by Equipment from which COMPANY is the  
original Company purchased from COMPANY hereunder. COMPANY shall pay all damages  
and costs finally awarded against DISTRIBUTOR because of direct infringement;  
provided, however, that COMPANY shall not be obligated to defend or be liable  
for costs or damages awarded in any suit or proceeding for infringement of  
patents by any other products, or any completed equipment, system, assembly,  
combination, method or process, in which, or in the manufacture or testing of  
which, any Equipment purchased from COMPANY may be used; and provided further  
that COMPANY's obligations to pay such damages and costs shall not apply to any  
alleged infringement occurring after DISTRIBUTOR has received notice of such  
alleged infringement unless COMPANY thereafter gives to DISTRIBUTOR written  
  
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consent for such continuing alleged infringement. COMPANY's liability hereunder  
shall not exceed the purchase price paid by DISTRIBUTOR for the infringing  
Equipment, and COMPANY shall not be liable for any collateral, incidental, or  
consequential damages awarded against DISTRIBUTOR.  
  
 COMPANY's duties under this paragraph 10 are conditioned upon  
DISTRIBUTOR giving COMPANY prompt written notice of commencement of any suit or  
proceeding or any claim of infringement and furnishing to COMPANY a copy of each  
communication relating to the alleged infringement and giving to COMPANY all  
authority (including the right to exclusive control of the defense of any such  
suit or proceeding), information and assistance (at COMPANY's expense) necessary  
to defend or settle such suit or proceeding. COMPANY shall not be bound by any  
settlement made without COMPANY's prior written consent.  
  
 If in any such suit or proceeding, DISTRIBUTOR's continued use of any  
item Equipment is enjoined or, if by reason of any claim of infringement,  
COMPANY deems it advisable to do so, COMPANY may, at its option and expense, (i)  
procure for DISTRIBUTOR the right to continue using such Equipment, (ii) modify  
or replace such Equipment with non-infringing Equipment, provided that such  
modification does not materially affect performance, or (iii) remove such  
Equipment, grant DISTRIBUTOR a credit thereon as depreciated on a  
straight-line-3-year basis and accept its return. If an infringement is alleged  
prior to completion of deliveries of the Equipment, COMPANY may decline to make  
further shipments without being in breach hereunder.  
  
 COMPANY shall not be obligated to defend any suit or proceeding, or be  
liable for any costs or damages, if the infringement arises out of compliance  
with DISTRIBUTOR's specifications or any marking or branding applied at the  
request of DISTRIBUTOR. DISTRIBUTOR agrees, at its own expense, to defend and to  
pay costs and damages finally awarded in any suit or proceeding against COMPANY  
based on any such infringement, provided that DISTRIBUTOR is promptly notified  
by COMPANY in writing of the commencement or threat of such suit or proceeding  
or claim of infringement and is given all authority (including the right to  
exclusive control of the defense of any such suit or proceeding), information  
and assistance (at DISTRIBUTOR's expense) necessary to defend or settle such  
suit proceeding.  
  
11. FORCE MAJEURE  
 If the performance hereof or any obligation hereunder, except the  
making of payments hereunder, is prevented, restricted or interfered with by  
reason by fire, flood, earthquake, explosion or other casualty or accident;  
strikes or labor disputes; inability to procure parts, supplies or power; war or  
other violence; any law, order, proclamation, regulation, ordinance, demand or  
requirement of any government agency; or any other or condition whatsoever  
beyond the reasonable control of the affected party, the party so affected, upon  
giving prompt notice to the other party, shall be excused from such performance  
to the extent of such prevention, restriction or interference; provided,  
however, that the party so affected shall take all reasonable steps to avoid or  
remove such causes of nonperformance and shall resume performance hereunder with  
dispatch whenever such causes are removed.  
  
12. ASSIGNMENT  
 The rights of DISTRIBUTOR hereunder may not be assigned in whole or in  
part, by operation of law or otherwise, without the express written consent of  
COMPANY.  
  
13. APPLICABLE LAW  
 The validity, construction and effect of this Agreement and the  
respective rights and obligations of the parties hereunder, shall be governed by  
and determined in accordance with the laws of the state of Florida in the United  
States of America as such laws are applied to contracts between Florida  
residents entered into and to be performed entirely within the state of Florida,  
without reference to principles of conflicts of law. The parties hereby agree to  
opt out of coverage of the United Nations Convention on Contracts for the  
International Sale of Good. The parties hereby agree that this Agreement shall  
be governed by the Uniform Commercial Code ("UCC") as adopted by the state of  
Florida.  
  
14. FORUM AND SERVICE OF PROCESS  
 All actions and proceedings arising out of or relating to this  
Agreement shall be heard and determined in a state or federal court sitting in  
the County of Dade, State of Florida. Service of process shall be considered  
effective if done pursuant to any of the methods set forth in Rule 4(i), Federal  
Rule of Civil Procedure or pursuant to Florida law.  
  
15. ATTORNEY'S FEES AND COSTS OF LITIGATION  
  
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 If any action or proceeding arising out of or relating to this  
Agreement is commenced the prevailing party shall be entitled to its reasonable  
attorney's fees, costs, and expenses including the costs, expenses, and fees  
associated with the enforcement or collection of any judgment.  
  
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