

SOFTWARE DISTRIBUTION AGREEMENT

This Software Distribution Agreement (hereinafter referred to as the "Agreement") is made and effective this ____ day of _____, 200_ by and between _____ (hereinafter referred to as the "Developer"), and _____ (hereinafter referred to as the "Distributor").

Developer has developed certain software it desires to distribute.

Distributor is in the business of marketing and distributing software products.

Developer and Distributor desire to arrange for Distributor to market Developer's software as set forth herein.

NOW, THEREFORE, it is agreed:

1. Distribution of Software.

A. Appointment. Subject to the terms of this Agreement, Developer appoints Distributor as a nonexclusive distributor for the following of Developer's software (the "Software"): [Software]. Distributor shall market copies of the Software supplied by Developer to customers for use only in the United States during the term of this Agreement. Distributor shall have no right to make copies of the Software. Distributor shall not distribute any copy of the Software without Developer's end-user software license agreement. Distributor will not export any Software outside the United States. Distributor will use its best efforts to promote, market and sell the software to dealers, retailers and other resellers.

B. Orders for Copies of Software. Any and all orders by Distributor for copies of the Software shall be pursuant to the terms and conditions of this Agreement. Such terms and conditions shall supersede any additional or conflicting terms or conditions contained in any purchase order or other communication from Distributor. Orders must be in writing, delivered in person, by mail, overnight delivery service or telecopier. Each order shall be for a minimum of [Minimum Order] units.

C. New Versions. In the event that Developer releases a new version of any Software product during the term of this Agreement, Distributor may return, within [Return Period] after first shipment of the new version to Distributor, any copies of the old version of such Software product held by Distributor in inventory and obtain a copy of the new version of such Software product for each copy of the old version returned by Distributor to Developer. Distributor shall not have the right to return any copies of the old version that have been sold by Distributor prior to release of the new version. Distributor will pay shipping charges both to and from Developer.

D. Returns. Distributor may return any units of the Software that are delivered with defective media or damaged packaging or documentation, provided such defects or damage are not the fault of the Distributor. Distributor may otherwise return any unopened units of Software during the term of this Agreement provided that Distributor pays to Developer a restocking charge in the amount of [Restock Charge] of Developer's then current price for such Software, and provided that the copies returned by Distributor are current versions of the Software at the time of such return. Distributor must request and receive a return of materials authorization number before returning any materials. [Guarantee of Sale]

E. Suggested Retail Price. If Developer reduces its suggested retail price of the Software, Developer shall grant an adjustment for Distributor on any then unsold Software in Distributor's physical inventory. The amount of the adjustment will be equal, pro rata, to the amount of change

in the suggested retail price. This adjustment will be provided only in the form of a credit against later purchases of the Software by Distributor.

F. Marketing Funds. Developer may agree to provide Distributor with funding for various marketing activities on a case-by-case basis. Developer recognizes the importance of promoting its products and will assist Distributor to do so. Reimbursement of marketing expenditures requires prior written authorization by Developer. All terms of the marketing agreements shall be specified in the authorizations. Claims for payment shall be submitted with proof-of-performance and a copy of the authorization. Developer specifically states, and Distributor recognizes, that Developer does not offer a CO-OP marketing fund entitling Distributor to accrue dollars for marketing based upon sales.

A. Prices. For each copy of the Software ordered by Distributor, Distributor shall pay to Developer the price set forth as follows: [Distributor Price Schedule]. The prices shall be subject to change at Developer's sole option upon [Notice for Price Change] written notice to Distributor. Distributor shall pay the amount within thirty (30) days of Developer's invoice.

B. Taxes. Distributor shall pay, or reimburse Developer as appropriate, for any sales, use, excise, property, or other tax imposed upon the provision of the Software to Distributor and amounts paid by Developer hereunder. In no event shall Distributor be responsible for taxes based on Developer's income or for the privilege of doing business.

3. Term and Termination.

A. Term. The "Initial Term" of this Agreement shall commence on [Start Date] and shall continue for a period of [Term Length], unless terminated earlier as provided herein. Either party may terminate this Agreement effective upon the end of the Initial Term by written notice to the other at least ninety (90) days prior to the end of the Initial Term. If not terminated at the end of the Initial Term, the Agreement shall automatically renew for successive periods of [Renewal Term] each, unless terminated by either party at least ninety (90) days before the end of any renewal term.

B. Termination. This Agreement may be terminated at any time: (i) by either party if there is a default of a material obligation which is not cured within thirty (30) days following notice from the non-defaulting party; (ii) by Developer if Distributor ceases to function as an ongoing concern or to conduct its operations in the normal course of business; or (iii) by Developer if Distributor shall become insolvent or bankrupt or Distributor shall make an assignment for the benefit of creditors or a trustee or receiver shall be appointed for Distributor. Except for a termination for cause, neither party shall be liable to the other or to any other person for any loss or damage occasioned by the termination of this Agreement as provided herein.

4. Indemnification of Distributor.

Developer shall be solely responsible for the design, development, supply, production, validity of copyrights and patents claimed by Developer, and performance of the Software. Distributor, in case of legal action seeking remedy from Distributor concerning Developer's warranty, infringement of copyright, patent, trade secret, or other proprietary right, will immediately notify Developer by Registered Mail of such action. Developer may, at its sole discretion, elect to undertake the defense of said action and will assign its attorney to the case. Developer agrees to indemnify and hold Distributor harmless from and against any claim, loss, damage, expense or liability (including attorney's fees and costs) that may result in whole or in part, from:

A. any infringement or any claim of infringement, of any patent, trademark, copyright, trade secret or other proprietary right with respect to the Software.

B. and warranty or product liability claim with respect to the Software.

5. Disclaimer.

EXCEPT AS PROVIDED IN THIS AGREEMENT, DEVELOPER DOES NOT MAKE AND DISTRIBUTOR DISCLAIMS, ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Developer provides a limited warranty to the end user of the Software as set forth in the license agreement that accompanies the Software.

6. Limitation of Remedies and Liability.

A. Damages. IN NO EVENT SHALL DEVELOPER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF DEVELOPER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

B. Further limitation. In the event that any disclaimer of warranty or limitation of liability is found to be unlawful or inapplicable, or to have failed of its essential purpose, Developer's liability shall be limited to the amount paid by Distributor for the specific Software copy that caused such liability.

C. Indemnification. Distributor agrees to indemnify and hold harmless Developer from and against any claim, loss, suit or damage, including reasonable attorney's fees and costs, arising out of any failure of Developer to perform any obligation in this Agreement or to properly deliver any Software to anyone purchasing from Distributor.

D. Reliance. Developer is willing to license the Software to Distributor only in consideration of and in reliance upon the provisions of this Agreement limiting Developer's exposure to liability, such as are contained in this Section 5. Such provisions constitute an essential part of the bargain underlying this Agreement and have been reflected in the license fees and other consideration specified in this Agreement.

7. Maintenance and Support.

Maintenance and support for the Software for the benefit of Distributor are not provided under this Agreement.

8. Notices.

Any notice or other communication under this Agreement shall be deemed given if delivered in writing to the intended recipient either in person or mailed, certified or registered, postage prepaid, or by recognized overnight delivery service, to the intended recipient at the address specified herein:

If to Developer:

____Developer's Name/Address____

If to Distributor:

____Distributor's Name/Address____

or such other address as a party may specify from time to time pursuant to this Section 7.

9. Governing Law.

This Agreement shall be governed, construed and enforced according to the laws of the State of

10. Final Agreement.

This Agreement terminates and supersedes all prior understandings or agreements on the subject matter hereof. This Agreement may be modified only by a further writing that is duly executed by both parties.

11. Headings.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

12. Severability.

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

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

Developer

Distributor