

INTERNATIONAL DISTRIBUTOR AGREEMENT

THIS INTERNATIONAL DISTRIBUTOR AGREEMENT (this "Agreement") is made and entered into on _____, 1999 ("Effective Date") by and between [COMPANY/SUPPLIER], a _____ corporation with a principal place of business at _____. ("COMPANY") and _____, a corporation organized and existing under the laws of Japan with its head office and principal place of business at _____ ("DISTRIBUTOR").

1. Appointment and Acceptance

1.1 COMPANY hereby appoints DISTRIBUTOR on an exclusive basis to purchase and resell the Products in the Territory. DISTRIBUTOR accepts this appointment on the terms and conditions set forth herein and obligates itself to the requirements of this Agreement.

1.2 The term "Products" shall mean the COMPANY products listed on Exhibit A attached hereto. COMPANY reserves the right to delete discontinued Products upon thirty (30) days prior written notice to DISTRIBUTOR. New or additional Products developed by COMPANY during the term of this Agreement shall be included on Exhibit A.

1.3 The term "Territory" shall mean the geographic area defined on Exhibit B attached hereto. DISTRIBUTOR shall not, without the express written authorization of COMPANY (i) reexport the Products from the Territory, or (ii) sell, service or promote the Products from a location outside of the Territory.

1.4 Distributor shall not appoint any subdistributors, subrepresentatives or subagents to sell or otherwise promote the sale of the Products without the express written consent of COMPANY.

2. Direct Sales

COMPANY's policy is to sell the Products through its DISTRIBUTOR organization, wherever possible. In the event that COMPANY should make any sales directly to customers in the Territory, it will compensate DISTRIBUTOR for any and all assistance performed at COMPANY's request. Further, in the event a prospective customer approaches COMPANY with the request for a Product quotation which envisions shipment of the Product into the Territory, COMPANY will reasonably compensate DISTRIBUTOR for any and all assistance performed at COMPANY's request in connection with any sale which results from such quotation.

3. Distributor's Representations

In order to induce COMPANY to enter into this agreement, DISTRIBUTOR, and its undersigned officer, warrant and represent that:

3.1 DISTRIBUTOR is a corporate entity duly organized and in good standing, and will remain in compliance with all applicable laws in the Territory.

3.2 DISTRIBUTOR was not created primarily to enter into this Agreement or to handle the Products, and its business is not exclusively or principally devoted to the purchase and resale of the Products.

3.3 DISTRIBUTOR is and will remain an independent contractor with respect to its relationship with COMPANY. DISTRIBUTOR agrees that COMPANY has granted it no authority to make changes to COMPANY's terms and conditions of sale, to extend COMPANY warranties or, in general, to enter into contracts or make quotations on behalf of or to bind COMPANY in any transactions with DISTRIBUTOR's customers or any governmental agencies or third parties. No relationship of employment shall arise between COMPANY and DISTRIBUTOR, or between COMPANY or any employee or representative of DISTRIBUTOR. DISTRIBUTOR is at all times acting for its own account, and at its own expense.

4. Term

4.1 Subject to the provisions of Section 13 below, the term of this agreement shall be for a fixed period of ___ years, commencing on the Effective Date and ending automatically at the expiration of such period, unless renewed as provided in provision 4.2 below.

4.2 If COMPANY and DISTRIBUTOR expressly agree in writing to renew this Agreement prior to the foregoing expiration date, this Agreement shall continue in full force and effect for one or more successive one (1) year renewal periods.

5. Prices and Terms

5.1. The Product prices quoted are exclusive of any national, state or local sales, use, value added or other taxes, customs duties, or similar tariffs and fees which shall be the responsibility of DISTRIBUTOR. In the event that COMPANY is required to pay any such taxes, duties or fees, such items will be added to the invoice to be paid by DISTRIBUTOR.

5.2 COMPANY may adjust the prices of the Products from time to time upon reasonable prior written notice to DISTRIBUTOR. DISTRIBUTOR shall submit a list of outstanding quotations to COMPANY at time of price change and COMPANY shall price protect such outstanding quotations for a period not to exceed three (3) months from the effective date of the price change.

5.3 All payments shall be made in United States dollars and shall be made by DISTRIBUTOR no later than thirty (30) days following the receipt of COMPANY's invoice.

5.4 In consideration of any open account terms given by COMPANY, DISTRIBUTOR hereby grants to COMPANY a continuing security interest in the Products now and hereafter acquired by DISTRIBUTOR and all proceeds derived from the resale of such Products ("Collateral") to secure payment of DISTRIBUTOR's payment obligations under this Agreement. DISTRIBUTOR acknowledges that this Article 5.4 constitutes a security agreement and hereby authorizes COMPANY to file any financing statements or other documents necessary to perfect COMPANY's security interest in the Collateral in any public office in any jurisdiction deemed necessary by COMPANY. DISTRIBUTOR hereby grants COMPANY a limited power of attorney for the sole purpose of executing, in COMPANY's name, such financing statements and related documents.

6. COMPANY Obligations

COMPANY will, during the term of this Agreement:

6.1 Provide annual training without additional charge at DISTRIBUTOR's facility for a reasonable number of DISTRIBUTOR's engineers, sales and/or service personnel in use, maintenance,

installation and operation of the Products. COMPANY agrees to pay all expenses of its employees to conduct such training sessions, including salaries and transportation;

6.2 Furnish DISTRIBUTOR, without charge, reasonable quantities of Product literature, including catalogues, circulars, photographs, camera ready artwork, operating and service manuals, advertising and sales material in English language or other translated international language format which COMPANY, at its option, may publish or prepare from time to time;

6.3 Render assistance, as needed, to DISTRIBUTOR on technical and sales problems and make visits to the Territory;

6.4 Invoice DISTRIBUTOR for each Product sold on the day it is shipped or in accordance with the terms of the accepted order;

6.5 Receive such visitors to observe COMPANY's facilities which DISTRIBUTOR introduces and COMPANY accepts in the exercise of its reasonable judgment; .

6.6 Participate in trade shows, open houses or exhibits in the Territory as COMPANY deems appropriate in its discretion; and

6.7 Assist DISTRIBUTOR with the development and approval of an annual business plan ("Annual Business Plan"), including attendance at a meeting with DISTRIBUTOR to conduct a mid-year review of such Annual Business Plan.

7. Distributor Obligations

In order to induce COMPANY to enter into this Agreement, and as a condition of its continuation in force, DISTRIBUTOR agrees that it will:

7.1 Actively use its best efforts to promote and penetrate the market for COMPANY Products in the Territory;

7.2 Maintain adequate premises and facilities within the Territory, at its own expense, from which to sell and/or service the Products;

7.3 Establish and perform the requirements of the Annual Business Plan attached to this Agreement as Exhibit C hereto and attend a mid-year meeting with COMPANY to review DISTRIBUTOR's compliance with such plan;

7.4 Employ an adequate number of capable salesmen and servicemen with engineering experience, at its own expense, to engage in the sale and service of the Products;

7.5 Require its salesmen from time to time, as may be mutually agreeable, to visit COMPANY's facility at DISTRIBUTOR's expense, for the purpose of developing expertise in the capabilities, competitive advantages, and operation of the Products;

7.6 Promote the Products in trade shows, open houses, or exhibitions, including mailing of promotional literature to prospective customers;

7.7 Submit to COMPANY regular weekly and monthly status reports in the format

specified on Exhibit D attached hereto, reflecting sales activities and anticipated requirements of customers in the Territory;

7.8 Supply copies of end-user pricing documentation covering Product procurement as may be requested by COMPANY from time to time;

7.9 Aggressively market the price/performance qualities of the Products and consult with COMPANY prior to quoting prices above the resale price guidelines suggested by COMPANY;

7.10 Promptly submit its written purchase orders to COMPANY to facilitate reasonable delivery times and scheduling of production;

7.11 Diligently perform Product warranty service at customer locations; and

7.12 Advise COMPANY in advance of any undertaking to represent, distribute, or otherwise handle competitive equipment of the type, size and capability of the Products.

8. Purchase Orders

Any purchase orders issued by DISTRIBUTOR are subject to acceptance by COMPANY and will not be deemed accepted until a written confirmation has been dispatched by COMPANY.

9. Delivery/Title/Risk of Loss

9.1 Delivery of all Products ordered by DISTRIBUTOR shall be made Ex-Factory. ICC Incoterms (1993 edition) shall apply, except insofar as these Incoterms may be inconsistent with the terms of this Agreement.

9.2 Title and risk of loss to the Products shall pass to DISTRIBUTOR when COMPANY gives possession to DISTRIBUTOR or its agent on board ship at the port of shipment.

9.3 All Products ordered pursuant to accepted purchase orders will be scheduled for delivery in accordance with COMPANY's then current and normal delivery times. COMPANY shall not be responsible for failure to deliver or comply with any provision of this Agreement if such non-performance is due to causes beyond its reasonable control such as, but not limited to, acts of God, fire or explosions, inability to timely procure parts and components from its suppliers or subcontractors, civil and labor disturbances or delays in transportation. In such event, the time for performance hereunder shall be extended by the period of time attributable to the delay. In no event shall such extension of time exceed 60 days of the original delivery date.

10. Product Warranty

10.1 COMPANY warrants to DISTRIBUTOR that the Products will be free from defects in material and workmanship for a period of twelve (12) months from the date of completion of installation at the end-user site, but in no event shall the warranty period extend beyond fifteen (15) months after the date of original shipment. This Product Warranty is extended to DISTRIBUTOR only, and such warranty may not be passed through to DISTRIBUTOR's customer.

10.2 The sole responsibility of COMPANY under the foregoing warranty shall be limited, at its option, to the repair or replacement, Ex-Factory of defective parts returned prepaid by DISTRIBUTOR. Replacement parts supplied by COMPANY will be guaranteed for the remainder of the Product warranty period or ninety (90) days from date of shipment from factory, whichever is greater. the nature of the warranty defect and including an explanation of any special circumstances.

10.3 All COMPANY warranties hereunder are conditioned upon proper use of the Products in the application for which they are intended, and no warranty shall apply to: (i) any product modification, installation, service or repair made by or on behalf of DISTRIBUTOR, other than by COMPANY, without the written approval of COMPANY; or (ii) Product damage caused by accident, neglect, or any cause other than ordinary use.

10.5 THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE). REPAIR OR REPLACEMENT IN THE MANNER PROVIDED ABOVE SHALL BE THE SOLE AND EXCLUSIVE REMEDY OF PURCHASER FOR BREACH OF WARRANTY AND SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF COMPANY WITH RESPECT TO THE QUALITY AND PERFORMANCE OF THE PRODUCTS.

10.6 COMPANY shall not be liable to DISTRIBUTOR or to DISTRIBUTOR's customer (including negligence and strict liability), for loss or damage to property of DISTRIBUTOR, customer or other parties, loss of use, loss of revenues or profits, or for any special indirect, incidental or consequential damage whatsoever.

11. COMPANY's Confidential Information and Rights

11.1 DISTRIBUTOR acknowledges that it will acquire information and materials from COMPANY and knowledge about the technology, business, organization, products, strategies, customers, and suppliers of COMPANY and that all such knowledge, information and materials acquired and the existence, terms and conditions of this Agreement are and will be trade secrets and confidential and proprietary information of COMPANY (collectively "Confidential Information"),. whether owned by COMPANY or licensed by COMPANY from third parties, are subject to a valuable proprietary interest of COMPANY, and that DISTRIBUTOR is under an obligation to maintain the secrecy of such Confidential Information. Without limiting the generality of the foregoing obligations, DISTRIBUTOR agrees that for the term of this Agreement and thereafter until such time as the Confidential Information is in the public domain, DISTRIBUTOR will (i) not disclose, publish or disseminate any Confidential Information to any third party written the prior written approval of COMPANY except to its employees with a "need to know" who have executed an agreement with DISTRIBUTOR to comply the nondisclosure and nonuse obligations of this Section 11., (ii) not use any Confidential Information for any other purpose other than to perform the obligations of this Agreement, , and (iii) treat all Confidential Information in a secret manner, including placing appropriate restricted marking and legends on the Confidential Information and maintain such written information in a secure storage facility. .

11.2 During the term of this Agreement, DISTRIBUTOR is authorized to use COMPANY trademarks for the Products in connection with DISTRIBUTOR's advertisement, promotion and distribution of the Products in the Territory. DISTRIBUTOR acknowledges that COMPANY owns and retains all trademarks, copyrights and other proprietary rights in the Products, and agrees that it will not at any time during or after the termination of this Agreement seek to register any trademark, trade

name, copyright or other proprietary right or assert or claim any interest in or take any action which may adversely affect the validity or enforceability of any trademark, trade name, trade secret, or copyright belonging to or licensed to COMPANY.

11.3 DISTRIBUTOR agrees to use reasonable efforts to protect COMPANY's proprietary rights and to cooperate in COMPANY's efforts to protect its proprietary rights. DISTRIBUTOR agrees to notify COMPANY of any known or suspected breach of COMPANY's proprietary rights and to cooperate with COMPANY without making any charge therefore in any action by COMPANY to investigate or remedy an infringement of such rights.

11.4 Neither DISTRIBUTOR nor its employees and agents, will, without COMPANY's prior consent, alter any of the Products or remove, alter, obliterate or mar any notice or legend of COMPANY's copyrights, trademarks or trade secrets.

12. Infringement Indemnification

12.1 COMPANY shall defend any claim, suit or proceeding brought against the DISTRIBUTOR so far as it is based on a claim that the use or transfer of any Products delivered hereunder constitutes an infringement of a patent, trademark or copyright registered in the United States, so long as COMPANY is notified promptly in writing by the DISTRIBUTOR of any such action and given full authority, information and assistance at COMPANY's expense for the defense of any such claim or proceedings. COMPANY shall pay all damages and cost awarded against the DISTRIBUTOR but shall not be responsible for any settlement made without its consent. In the event of final judgment which prohibits the DISTRIBUTOR or the DISTRIBUTOR's customers from continued use of any Products by reason of infringement of such patent, trademark or copyright, COMPANY may, at its sole option and at its expense, obtain the rights to continued use of any such Product, replace or modify such Product so that it is no longer infringing.

12.2 COMPANY shall have no liability to the DISTRIBUTOR under any provisions of this Section 12 if any patent, trademark or copyright infringement or claim thereof is based upon the use of Products delivered hereunder in connection or in combination with equipment or devices not delivered by COMPANY or use of any such Product in a manner for which the same was not designed.

13. Termination

13.1 COMPANY may terminate this Agreement at any time prior to the expiration of its stated term upon the occurrence of any of the following events, each of which is expressly declared to be "Just Cause" for termination of this Agreement:

13.1.1 DISTRIBUTOR defaults in any payment due COMPANY for Products purchased under this Agreement and such default continues unremedied for a period of fifteen (15) days following COMPANY's written notice to DISTRIBUTOR;

13.1.2 DISTRIBUTOR fails to perform or meet the provisions of the Annual Business Plan set forth in Exhibit C and such noncompliance continues unremedied for a period of thirty (30) days following COMPANY's written notice to DISTRIBUTOR;

13.1.3 DISTRIBUTOR fails to perform any other obligation, warranty, duty or responsibility under the Agreement, and such failure or default continues unremedied for a period of thirty (30) days following COMPANY's written notice to DISTRIBUTOR;

13.1.4 DISTRIBUTOR becomes insolvent; proceedings are instituted by or against it in bankruptcy, insolvency, reorganization or dissolution; or it makes an assignment for the benefit of creditors; or

13.1.5 DISTRIBUTOR is merged, consolidated, or substantially changes the nature or character of its business, or substantially changes its management ownership or principals;

13.2 Either party may terminate this Agreement at will at any time during the term of this Agreement, with or without cause, by giving not less than three (3) months written notice to the other party.

13.3 Upon termination hereby by either party:

13.3.1 All sums due to either party from the other shall be promptly paid;

13.3.2 DISTRIBUTOR orders received and accepted by COMPANY prior to termination of this Agreement shall be fulfilled in accordance with their terms;

13.3.3 DISTRIBUTOR shall deliver promptly to COMPANY all Confidential Information in DISTRIBUTOR's possession or under DISTRIBUTOR's control;

13.3.4 DISTRIBUTOR will cease all display, advertising and use of COMPANY tradenames, trademarks, logos and designations, except uses on the Products which remain in DISTRIBUTOR's possession; and

13.3.5 COMPANY shall have the option to repurchase any or all of the Products in DISTRIBUTOR's inventory which are new and unused at net price paid originally by DISTRIBUTOR.

14. Governing Law

The place of the making and execution of this Agreement, and the location of the manufacturing facility for the Products purchased and resold by DISTRIBUTOR under this Agreement shall be Orange County, California, U.S.A. Accordingly, the parties agree that the law of the State of California shall govern the interpretation, enforcement and performance of this Agreement. COMPANY and DISTRIBUTOR each expressly waive and disavow any rights that may accrue under any other body of law. The U.N. Convention on Contracts for the Sale of International Goods is hereby excluded from application to this Agreement.

15. Dispute Resolution

15.1 It is the intention of the parties to use their reasonable best efforts to informally resolve, where possible, any dispute, claim, demand or controversy arising out of the performance of this Agreement by mutual negotiation and cooperation.

15.2 In the event that the parties are unable to informally resolve any dispute, claim, demand,

controversy or cause of action of every kind and nature whatsoever, known or unknown, vested or contingent, that such party may now have or at any time in the future claim to have based in whole or in part, or arising from or that in any way is related to the negotiations, execution, interpretation or enforcement of this Agreement (collectively, the "Disputes"), the parties agree that such Disputes shall be completely and finally settled by submission of any such Disputes to arbitration before a single arbitrator under the Rules of Conciliation and Arbitration of the International Chamber of Commerce then in effect. Unless the parties agree otherwise, the arbitration proceedings shall take place in Los Angeles, California, U.S.A., and the arbitration proceedings hereunder shall be conducted in English. The award of the arbitrator shall be in writing, shall be final and binding upon the parties, shall not be appealed from or contested in any court and may, in appropriate circumstances, include injunctive relief. Judgment on such award may be entered in any court of appropriate jurisdiction, or application may be made to that court for a judicial acceptance of the award and an order of enforcement, as the party seeking to enforce that award may elect.

16. Attorney's Fees

If any party shall commence any action or proceeding against another that arises out of the provisions hereof, or to recover damages as the result of the alleged breach of any of the provisions hereof, the prevailing party therein shall be entitled to recover all reasonable costs incurred in connection therewith, including reasonable attorneys' fees.

17. U.S. Laws and Regulations

17.1 DISTRIBUTOR acknowledges that COMPANY has informed it that United States law and related regulations may under certain circumstances forbid the re-export of Products (or associated technical data) sold or transferred to customers in the Territory or elsewhere. DISTRIBUTOR agrees that it will make every reasonable effort to comply with such regulations, including providing customer information required by COMPANY to comply with United States and local country laws and regulations.

17.2 DISTRIBUTOR acknowledges that COMPANY has informed it that United States law forbids the making of gifts or payments to government employees or political parties to induce such employees or parties to misuse positions of influence in order to obtain or retain business. DISTRIBUTOR agrees that it will not engage in such conduct, nor permit others under its control to make such gifts or payments.

18. Limitation of Liability

Neither COMPANY nor DISTRIBUTOR shall be liable to the other, or to DISTRIBUTOR's customers, for any special, indirect, or consequential damages, including but not limited to loss of profits, loss of business opportunities, or loss of business investment.

19. Indemnification

DISTRIBUTOR agrees to indemnify and hold COMPANY harmless from any costs, claims, damages, losses, liabilities or expenses (including reasonable attorney's fees) asserted by any third party resulting from DISTRIBUTOR's breach of the Agreement, any inaccurate or unauthorized representation or warranty made by DISTRIBUTOR, or failure to conform to local laws and regulations.

20. Survival

In addition to DISTRIBUTOR's obligation to pay COMPANY all amounts due hereunder, DISTRIBUTOR's obligations under Sections 11, 12 , 14, 15, 16, 17, 18 and 19 shall expressly survive termination of the Agreement.

21. Assignment

Neither party may assign any of the rights or obligations set forth in this Agreement without the prior written consent of the other, provided that COMPANY shall have the right to assign any portion of the Agreement to its subsidiaries and affiliated companies.

22. Notices

All notices and demands under this Agreement shall be in writing and shall be served by personal service or by mail at the address of the receiving party first stated in this Agreement (or such different address as may be designated by such party to the other in writing). All notices or demands by mail shall be by telex, cable, telefacsimile, or by certified or registered airmail, return-receipt requested, and shall be deemed complete upon receipt.

23. Integrated Agreement

This Agreement constitutes the entire understanding and agreement between COMPANY and DISTRIBUTOR and terminates and supersedes all prior formal or informal understandings. Should any article of this Agreement be held unenforceable by a court of law or other tribunal having jurisdiction over both parties, COMPANY or DISTRIBUTOR may elect to terminate this Agreement.

24. Exhibits

Exhibits A, B, and C are expressly incorporated into and made part of this Agreement.

25. Language

This Agreement has been written in the English language. It may be translated, for convenience, into other languages. However, in case of error or disagreement, the executed English language version shall prevail.

Entered into in Orange County, California, U.S.A.

COMPANY: _____

DISTRIBUTOR: _____

BY: _____

BY: _____

TITLE _____

TITLE: _____

DATE: _____

DATE: _____