

VALUE ADDED RESELLER AGREEMENT

Agreement No. _____

Date: _____

THIS AGREEMENT is made between [MANUFACTURER] (the "Manufacturer"), a corporation having offices at [address] and [RESELLER] ("Reseller") a corporation having offices at [address]. Manufacturer hereby appoints Reseller as a value-added reseller ("VAR") on a nonexclusive basis, in accordance with the terms and conditions of this Agreement which consists of this signature page and the following Schedules and Exhibits, each of which is incorporated herein by this reference ("Agreement"):

- Schedule "A" - General Terms and Conditions
 - Part "A" - Export Restricted Countries
- Schedule "B" - VAR Terms and Conditions
 - Part "A" - Application Packages
 - Part "B" - Target Market Description
 - Part "C" - Software Sublicense Terms
 - Part "D" - Discount Terms

THE PARTIES HAVE READ THE ENTIRE AGREEMENT, UNDERSTAND THAT THE GENERAL TERMS AND CONDITIONS APPLY FULLY TO ALL SCHEDULES AND EXHIBITS, AND HAVE THE REQUISITE LEGAL AND OTHER AUTHORITY TO EXECUTE THIS AGREEMENT AND PERFORM THEIR RESPECTIVE OBLIGATIONS HEREUNDER.

MANUFACTURER

Per: _____

Per: _____

RESELLER

Per: _____

Per: _____

SCHEDULE "A"

GENERAL TERMS AND CONDITIONS

1. Definitions

- (a) "Customer" means a current or prospective end-user of the Products, excluding any entity that directly or indirectly owns or controls or is owned or controlled by Reseller.
- (b) "Hardware" means hardware products sold by Manufacturer.
- (c) "Insolvent" means that a party:
 - (i) ceases to conduct business in the normal course;
 - (ii) becomes insolvent;
 - (iii) enters into suspension of payments, moratorium, reorganization or bankruptcy;
 - (iv) makes a general assignment for the benefit of creditors;
 - (v) makes a statement in writing of its inability to pay its debts as they become due;
 - (vi) suffers or permits the appointment of a receiver for its business or assets, or
 - (vii) avails itself of or becomes subject to any other judicial or administrative proceeding that relates to insolvency or protection of creditors' rights.
- (d) "Manufacturer" means [MANUFACTURER], its affiliates and any wholly owned subsidiary of Manufacturer.
- (e) "Products" mean Hardware and Software.
- (f) ["Services" mean any of the Integration Services or Custom Services described in Schedule "___" performed by Reseller for a Customer.]
- (g) "Software" means software, in object code only, including documentation and related materials, furnished by Manufacturer under this Agreement, excluding software provided with a shrink-wrap license. Reseller agrees to be bound by the terms set forth in any shrink wrap license, unless it notifies Manufacturer of any objections and returns the applicable software to Manufacturer within _____ days of receipt thereof.
- (h) "Software Package" means any:
 - (i) Application Package described in Schedule "B", Part "A";
 - (ii) [custom package which is developed and/or licensed by Reseller for use with Products.]

2. Term and Termination

The Agreement is effective from the date on which it is executed by Manufacturer ("Effective Date") and will continue for a term of _____ [months/years]. The parties may agree in writing to renew this Agreement for successive _____ [month/year] terms. Any Schedules entered into as part of this Agreement will terminate with this Agreement regardless of the date on which such Schedule was executed. A party may terminate any Schedule or this Agreement (including all Schedules hereto) upon notice to the other party if the other party:

- (a) fails to perform any of its obligations under this Agreement for a period of _____ days after receipt of notice of such failure to perform,
- (b) undergoes a direct or indirect change in ownership or control as it exists on the Effective Date and the notifying party determines in its sole discretion that the change may adversely affect its ongoing business, or
- (c) becomes Insolvent.

3. Co-operation and Further Assurances

The parties agree to co-operate in marketing efforts directed towards Customers. Neither party will knowingly contradict the other's technical recommendations to Customers without its prior consent. Each party agrees that it will from time to time at the reasonable request of the other party execute and deliver such assignments, instruments and conveyances and take such further action as may be reasonably required to implement this Agreement and comply with local law.

4. Reseller's Obligations

- (a) Reseller shall maintain each Software Package to ensure proper operation and performance at the then-current revision level of Manufacturer's applicable operating system, including revisions resulting from mandatory field change orders for Hardware and periodic updates or releases for Software.
- (b) Reseller shall use reasonable efforts to actively market its Software Packages and Services to Customers for use with Products and shall install and support Software Packages and provide Services in accordance with its agreements with Customers.
- (c) Reseller shall purchase, lease or continuously have access to one or more Manufacturer computer systems operating at the then-current revision level of the applicable Manufacturer operating system, to be used exclusively by Reseller solely to actively develop, market, maintain and support Software Packages ("Development System") in accordance with Manufacturer's then-current Development System Policy & Guidelines (the "Development System Guidelines").

5. Relationship of Parties

The relationship between the parties shall be that of independent contractors. Nothing in this Agreement shall be interpreted or construed so as to create any partnership, joint venture or similar relationship between the parties hereto, or to subject the parties to any implied duties or obligations respecting the conduct of their affairs which are not expressly stated herein. This Agreement is not exclusive in any respect and either party may enter into similar or other agreements with third parties.

6. No Endorsement

NEITHER PARTY WILL HAVE ANY RIGHT OR AUTHORITY TO ACT ON BEHALF OF THE OTHER PARTY NOR WILL EITHER PARTY REPRESENT THAT IT HAS SUCH RIGHT OR AUTHORITY OR THAT THE OTHER PARTY HAS ENDORSED, GUARANTEED OR WARRANTED ITS PRODUCTS, SOFTWARE PACKAGES OR SERVICES.

7. Limitation on Liability

Except for payment obligations, neither party shall be liable for any failure or delay in performing an obligation that is due to causes beyond its reasonable control, so long as the party gives prompt notice to the other party and makes all reasonable efforts to perform. IN NO EVENT WILL A PARTY BE LIABLE FOR ANY SPECIAL, PUNITIVE, MORAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT FORESEEABLE, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR DATA.

8. Confidential Information

Each party may have access to certain trade secrets, proprietary or confidential business information of the other party ("Confidential Information"). The receiving party shall keep all Confidential Information of the other party in confidence, shall not disclose any item of Confidential Information to any person other than its employees, agents or contractors who need to know the same in order to perform their duties, and shall use such Confidential Information only as authorized in order to fulfil its obligations under this Agreement. The receiving party shall protect and maintain the confidentiality of all Confidential Information with the same degree of care as it employs to protect its own Confidential Information, but at least with a reasonable degree of care, including requiring employees, agents and

contractors to sign a non-disclosure agreement in which they agree to be bound by the provisions of this Section. The receiving party shall be liable to the disclosing party for any non-compliance by its agents or contractors to the same extent that it would be liable for non-compliance by its employees. The term "Confidential Information" does not include any data or information which:

- (a) was in the receiving party's lawful possession prior to the disclosure thereof by the disclosing party;
- (b) is subsequently lawfully obtained by the receiving party from a third party under no obligation of confidentiality;
- (c) is independently developed by the receiving party; or
- (d) is or subsequently becomes part of the public domain through no act or failure to act by the receiving party.

Confidential Information must be marked or clearly designated as such in writing by the disclosing party.

9. Indemnification

- (a) Manufacturer shall, with respect to Products, and Reseller shall, with respect to Software Packages and Services, defend or settle any claim against the other party:
 - (i) resulting from the performance or use of Products, Software Packages or Services, and any information the indemnifying party supplies about the same, or
 - (ii) that a Product, Software Package or Service infringes any patent, utility model, industrial design, copyright, trade secret, mask work, trade mark or service mark, provided that the other party:
 - A. promptly notifies the indemnifying party in writing of the claim, and
 - B. co-operates with the indemnifying party and grants it sole authority to handle the defense of such claim and negotiate any related settlement.
- (b) The indemnifying party shall pay the costs of such defense and settlement and any costs and damages awarded against the other party. With respect to Products sold or licensed by Manufacturer to Reseller, if a claim of infringement is made or appears likely to be made, Manufacturer may procure the right for Reseller to continue using the Product, may modify it or may replace it, but if use of a Product is enjoined by a court or if Manufacturer determines that none of the foregoing alternatives is reasonably available, Manufacturer will take back the Product and refund its depreciated value. Manufacturer shall have no liability for any such claim arising from:
 - (i) Manufacturer's compliance with any designs, specifications or instructions of Reseller;
 - (ii) modification of a Product by Reseller or a third party;
 - (iii) use of a Product in a manner not specified by Manufacturer; or
 - (iv) use of the Product with products not supplied by Manufacturer.

THE ABOVE TERMS STATE THE INDEMNIFIED PARTY'S EXCLUSIVE REMEDY AND THE INDEMNIFYING PARTY'S ENTIRE LIABILITY FOR CLAIMS OF INFRINGEMENT.

THIS IS A 20-PAGE DOCUMENT, INCLUDING SCHEDULES.