AGREEMENT OF DEALERSHIP

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The Agreement of Dealership (the “Agreement”) is effective [DATE],

**BETWEEN: [YOUR COMPANY NAME]** (the "Company"), is a company organised and existing under the laws of the [Province] of the [COUNTRY], with its head office located at:

[YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Dealer"), a company organised and existing under the laws of the [Province] of the [COUNTRY], with its head office located at:

[COMPLETE ADDRESS]

WHEREAS:

[YOUR COMPANY NAME] holds the distribution rights for [LOCATION] for the [SPECIFY GOODS BEING DISTRIBUTED] manufactured by [COMPANY MANUFACTURING DISTRIBUTED GOODS];

[COMPANY MANUFACTURING DISTRIBUTED GOODS] products are top-quality, highly reputed, trademark products the distribution of which requires specialised technical knowledge and involves after-sales consulting activities and services;

The Dealer affirms that it has particular experience in the distribution of [SPECIFY GOODS BEING DISTRIBUTED] and that it possesses adequate facilities for commercial demonstration and display as well as qualified staff for the sale and maintenance of [SPECIFY GOODS BEING DISTRIBUTED];

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

# 1. STATUS OF DEALER AND PARTIES

1.1 [YOUR COMPANY NAME] hereby appoints the Dealer as a “Certified Dealer” of the goods listed in Schedule A to this agreement (hereinafter referred to as the “Distributed Products”), and the Dealer accepts such appointment. The appointment of the Dealer is non-exclusive and does not imply the granting of a specific geographic area. [YOUR COMPANY NAME] reserves the absolute right to increase or reduce the number of Certified Dealers in the proximity of the Dealer’s outlet at any time without prior notice. The Dealer shall not offer the Distributed Products for sale at any outlets other than those set out in Schedule B hereto (the “Outlets”); any additional outlets require the prior written authorization of [YOUR COMPANY NAME].

1.2 It is agreed that the Dealer shall act for and on behalf of itself as an independent co-contracting party. It shall not be empowered or authorised to bind [YOUR COMPANY NAME] in any manner whatsoever. None of the provisions of this agreement may be construed as creating an employee-employer relationship between the Dealer and [YOUR COMPANY NAME].

# 2. OBLIGATIONS OF [YOUR COMPANY NAME]

[YOUR COMPANY NAME] shall:

2.1 Furnish to the Dealer an initial quantity of marketing brochures; user instruction and after-sales service pamphlets and other material to assist the Dealer in the promotion and sale of the Distributed Products. Additional material will be made available to the Dealer at a reasonable price.

2.2 Furnish to the Dealer technical assistance and information concerning the Distributed Products and keep the Dealer informed of new information concerning the Distributed Products, as stipulated below.

2.3 Train one employee at each Dealer Outlet in sales and after-sales services.

# 3. DUTIES, OBLIGATIONS AND STATEMENTS OF THE DEALER

3.1 Throughout the term of this agreement, the Dealer shall maintain appropriate premises for the promotion of sales of the Distributed Products at its Outlets. The Dealer shall not offer the Distributed Products for sale at other outlets. The Dealer shall not sell the Distributed Products to other dealers, unless it has furnished to [YOUR COMPANY NAME], in writing, the name and address of such a dealer and received the prior consent of [YOUR COMPANY NAME] *in re*spect of the sale so proposed.

3.2 In the event that the Dealer wishes to sell the Distributed Products to another Certified Dealer, the Dealer must first notify [YOUR COMPANY NAME] in writing of the name and address of such a dealer, and it shall not close the sale until it has received written confirmation from [YOUR COMPANY NAME]. Within [NUMBER] days following the sale to such other dealer, the Dealer shall notify [YOUR COMPANY NAME] of the products sold as well as their series numbers, if any.

3.3 The Dealer will use its best efforts to promote, advertise and sell the Distributed Products. It shall, in particular:

3.3.1 Train and maintain a sufficient qualified and competent staff to promote and sell the Distributed Products, carry out the after-sales service of such products and, in general, fulfil its obligations arising from this agreement. [YOUR COMPANY NAME] envisages organising training sessions for Dealers. The Dealer shall at all times have at least one employee at each of its Outlets who has been trained in each of these sessions. The cost of such training, such as travel, accommodation, food, etc., will be borne by the Dealer. [YOUR COMPANY NAME] reserves the right to bill the Dealer a reasonable amount *in re*spect of such training sessions.

3.3.2 Display the Distributed Products in an appropriate and attractive environment.

3.3.3 Maintain both the interior and exterior of the Outlets in a manner which encourages the purchase of the Distributed Products.

3.3.4 Furnish to customers, prior to and after the sale, technical assistance with regard to programming of and information on the software, and inform customers regarding the use of the Distributed Products.

3.3.5 Permit [NUMBER] representatives at all times to examine its Outlets and its Distributed Product inventory.

3.3.6 Demonstrate the Distributed Products to customers who so request and instruct customers as to their assembly and installation.

3.3.7 Not remove from the Distributed Products any material included in each Distributed Product.

3.3.8 Promptly notify [YOUR COMPANY NAME] of all defective products or any safety problem encountered and keep [YOUR COMPANY NAME] informed of all customer complaints.

3.3.9 Maintain, if possible, sufficient liability insurance coverage to protect [YOUR COMPANY NAME] from all claims by customers resulting from the acts, omissions and/or erroneous statements of the Dealer.

3.4 The Dealer shall provide prompt and efficient after-sales service of all the Distributed Products under original warranty, covered by the extended warranty or by a service contract, whether or not such products were sold by the Dealer. The Dealer shall also deal with all customer claims and complaints, both prior to and after the sale. The Dealer shall be credited for the work and the defective parts returned at the rates indicated in the service reimbursement schedules in force at the time such services were rendered.

In order to give rise to credit, the services must have been provided during the warranty period applicable to the defective products. Only Distributed Products or other products authorised in writing by [YOUR COMPANY NAME] may be used to provide the after-sales service.

3.5 The Dealer shall at all times conduct its business in such a manner as to enhance the reputation and credibility of [YOUR COMPANY NAME] and Distributed Products. It shall, in particular:

3.5.1 Refrain from participating in any unlawful, unfair, deceitful or immoral practise and refrain from selling the Distributed Products to any other Dealer or organization, which has recourse to such practices.

3.5.2 Present the Distributed Products in a fair and appropriate manner. For such purpose, the Dealer shall not disparage [YOUR COMPANY NAME] and the Distributed Products and shall not make statements concerning the characteristics or capabilities of the Distributed Products which may not be in accordance with those described in this documentation; nor shall the Dealer market the Distributed Products by correspondence.

3.6 In the event of a merger or reorganisation of the Dealer, or any change in the control of the Dealer or any transfer of a substantial part of the business thereof, the Dealer shall notify [YOUR COMPANY NAME] in writing thereof no later than [NUMBER] days prior to the occurrence of such an event.

# 4 PURCHASE OF THE DISTRIBUTED PRODUCTS

For the term of this agreement, the Dealer may order and purchase the Distributed Products on the following terms and conditions:

4.1 Standard Orders

The first order placed by the Dealer pursuant to this agreement may not be changed or cancelled and shall cover the needs of the Dealer for the [NUMBER] months following the date hereof, broken down on a monthly basis.

Orders for subsequent months must be received by [YOUR COMPANY NAME] at least [NUMBER] days (“Order Date”) prior to the delivery date requested. If orders are received by [YOUR COMPANY NAME] prior to the applicable Order Date, they may only be changed or cancelled prior to that date. Accordingly, orders will be considered to be “Firm Orders” after the applicable Order Date. Orders with no delivery date requested will be deemed to be Firm Orders and may not be changed or cancelled. Their delivery date is [NUMBER] days from the date of receipt by [YOUR COMPANY NAME] of such orders.

4.2 Special Orders

Special orders (“Special Orders”) are orders placed by the Dealer less than [NUMBER] days prior to the delivery dates requested. [YOUR COMPANY NAME] will do its best to deliver the Special Orders in accordance with product availability. The acceptance of Special Orders will be subject to surcharges, which will be added to the current prices of the Distributed Products. [YOUR COMPANY NAME] will periodically send the Dealer the current amount of such surcharges for Special Orders.

4.3 Written Orders - Acceptance and Refusal

4.3.1 Written orders must be placed by letter or telex and shall indicate the delivery dates requested. They shall bind [YOUR COMPANY NAME] only after their written acceptance (by letter or telex).

4.3.2 [YOUR COMPANY NAME] is entitled to refuse any order placed by the Dealer where, in the opinion of [YOUR COMPANY NAME], the solvency of the Dealer is insufficient. [YOUR COMPANY NAME] may also cancel any accepted orders or delay any delivery if the Dealer is late in its payments. The cancellation of any such order or any delay in delivery may not be construed as a termination of this agreement unless [YOUR COMPANY NAME] notifies the Dealer that such is the case.

4.4 Costs of Cancellation and Postponed Delivery

The cancellation by the Dealer of Firm Orders or Special Orders will be subject to the payment of an amount of [%] of the value of the cancelled order. Except where otherwise agreed in writing, any postponement by the Dealer of a delivery date requested *in re*spect of a Firm Order or a Special Order shall entail the obligation to pay the same amount. Where [YOUR COMPANY NAME] is unable to deliver a Firm Order or a Special Order within thirty [NUMBER] days of the Delivery Date provided for, the Dealer may cancel all or part of the order at no cost. Any and all claims for damages or compensation are excluded.

4.5 Obligations of [YOUR COMPANY NAME]

[YOUR COMPANY NAME] will use its best efforts to deliver accepted orders as quickly as required. Nevertheless, [YOUR COMPANY NAME] shall not be responsible for any direct or indirect damage which may be caused to the Dealer or any third party by [YOUR COMPANY NAME]’s failure to fill any order or by any delay in delivery.

Where orders for the Distributed Products exceed the inventory of [YOUR COMPANY NAME], [YOUR COMPANY NAME] will allot the inventory available to its Dealers on a basis which it deems equitable.

# 5 PRICES BILLED TO DEALER

5.1 [YOUR COMPANY NAME] will periodically inform the Dealer of the current prices of its products. The Dealer undertakes to pay the prices applicable to the Distributed Products as specified in the [YOUR COMPANY NAME] price schedule in force on the corresponding Order Date. The Special Orders will be paid with the surcharges then in force. [YOUR COMPANY NAME] reserves the right to modify the Dealer Price List from time to time.

5.2 Prices quoted by [YOUR COMPANY NAME] do not include Tax.

5.3 [YOUR COMPANY NAME] will endeavour to inform the Dealer [NUMBER] days in advance of any reduction in the suggested retail price as determined in the Dealer Price List. In the event that [YOUR COMPANY NAME] does not give [NUMBER] days’ advance notice of such a reduction, the Dealer will be entitled to collect from [YOUR COMPANY NAME] an amount equal to the reduction in the unit prices applicable to each Distributed Product multiplied by the number of the Distributed Products which were:

5.3.1 Ordered by the Dealer during such period of [NUMBER] days until the day preceding the day on which the Dealer was notified of such a reduction, and

5.3.2 Held in inventory by the Dealer on the effective date of such a reduction.

# 6 DEALER SALES PRICE

The suggested prices published in the Dealer Price List are provided solely as a guide; the Dealer is entirely free to choose the price at which it will sell the Distributed Products.

# 7 PRICE, PAYMENT AND DELIVERY

7.1 The prices, terms and conditions contained in this agreement shall apply to all purchases of the Distributed Products by the Dealer, notwithstanding the stipulations contained in the orders or other marketing conditions of the Dealer.

7.2 Payment of all the Distributed Products delivered is due [NUMBER] days net from the billing date. A monthly interest rate of [%] will be applied to the amount due for invoices which are not paid during this time period.

7.3 Delivery will be made PREPAID to the [YOUR COMPANY NAME] warehouse from which the products are delivered. Except as otherwise indicated in the order, delivery will be made to the address of the Dealer as indicated in this agreement. All risks will be transferred to the Dealer from the moment the products are released by [YOUR COMPANY NAME] to a carrier.

7.4 Except as otherwise stipulated in the order, [YOUR COMPANY NAME] may make partial deliveries, which deliveries shall be made and paid separately within the time period set out in section 7.2

# 8 OWNERSHIP

8.1 The Distributed Products shall remain the property of [YOUR COMPANY NAME] until the Dealer has paid the price thereof in full.

8.1.1 The Dealer shall keep the Distributed Products on behalf of [YOUR COMPANY NAME] and is only authorised to release them to its clients in the normal course of its business and in accordance with the stipulations of this agreement.

8.1.2 The Dealer shall promptly render account to [YOUR COMPANY NAME] of all such sales and payment received in consideration therefore and shall keep separate books for all such receipts of funds.

8.1.3 The Dealer shall have the care and custody of the Distributed Products and shall stock them separately. It shall identify them as being the property of [YOUR COMPANY NAME].

8.1.4 Upon the first written request of [YOUR COMPANY NAME], the Dealer shall deliver the unpaid Distributed Products to [YOUR COMPANY NAME] or authorise [YOUR COMPANY NAME] to do so on its own account. For the purposes of such a repossession, the Dealer hereby irrevocably authorises [YOUR COMPANY NAME] to enter upon the premises where the Distributed Products are kept at any time during business hours.

8.1.5 The rights granted to [YOUR COMPANY NAME] by this section shall survive the termination of this agreement, notwithstanding the reason therefore.

8.1.6 The Dealer shall insure the Distributed Products at least for the full amount of their purchase price.

8.1.7 The authorization given to the Dealer to sell the Distributed Products shall automatically lapse as of the date of any eventual cessation of payments.

# 9 MODIFICATION OF THE DISTRIBUTED PRODUCTS

[YOUR COMPANY NAME] shall be entitled to change the Distributed Products, to increase or reduce their number or type, or interrupt their sale, in application of its general production or sales policy. [YOUR COMPANY NAME] shall notify the Dealer of any such change or interruption by forwarding thereto an amended Schedule A. Schedule A as amended will come into force [NUMBER] days after its receipt by the Dealer. The amendment of Schedule A by [YOUR COMPANY NAME] shall not give rise to any compensation or damages in favour of the Dealer.

# 10 CONFIDENTIALITY

The Dealer acknowledges that any information concerning [YOUR COMPANY NAME] and the Distributed Products including, without being limited thereto, the organisation of [YOUR COMPANY NAME], or its business transactions, the customer lists, the sales practices, the operational procedures and practices, the technical data for the Distributed Products and software, whether they be the property of [YOUR COMPANY NAME] or granted under licence to [YOUR COMPANY NAME] by third parties, are of vital interest to [YOUR COMPANY NAME] and shall be kept confidential by the Dealer in all circumstances. Further, this agreement shall be considered to be confidential information. Accordingly, the Dealer undertakes, for the term of the agreement and for a period of [NUMBER] years after its termination, notwithstanding the reason therefore, not to:

10.1 Disclose, publish or disseminate any confidential information;

10.2 Use any confidential information for its own account;

10.3 Authorize any other person to disclose, publish or disseminate written confidential information, including appropriate markings of confidential written information.

# 11 TERM AND TERMINATION

11.1 The present agreement is for an indefinite term.

11.2 Either party may terminate the agreement at any time provided it notifies the other party by registered letter with acknowledgement of receipt [NUMBER] days in advance, or one hundred and [NUMBER] days in advance, where the agreement has been in force for more than [NUMBER] years.

11.3 Further, [YOUR COMPANY NAME] may terminate this agreement if the Dealer fails to fulfil any of its obligations as defined herein. The agreement will be terminated of right [NUMBER] days after notice is given to the Dealer to fulfil its obligation by registered letter with acknowledgement of receipt, in the event that, notwithstanding such notice of default, the Dealer has not remedied its default.

11.4 [YOUR COMPANY NAME] shall also be entitled to terminate the agreement by registered letter with acknowledgement of receipt in the event of judicial settlement, liquidation of property, insolvency, winding-up, provisional suspension of proceedings or any other procedures for the collective or judicial purging of the Dealer.

11.5 Finally, [YOUR COMPANY NAME] and the Dealer will be entitled to terminate the agreement by registered letter with acknowledgement of receipt, in the event that the Dealer does not accept changes in the prices of the Distributed Products or amendments in Schedule A hereto.

11.6 In the event of termination of this agreement, [YOUR COMPANY NAME] will be entitled to refuse all or part of the orders received from the Dealer with the notice of termination but prior to the effective date of the termination. Where there are insufficient Distributed Products available at such time to fully meet the requirements, [YOUR COMPANY NAME] may limit deliveries to the Dealer during the said period to the average purchases made by the Dealer from [YOUR COMPANY NAME] during the [NUMBER] months preceding the date of notice of termination. Notwithstanding the payment terms granted to the Dealer, all products delivered during such period shall be paid for by certified check prior to delivery.

11.7 On the effective date of termination of the agreement:

11.7.1 The Dealer shall submit to [YOUR COMPANY NAME] a list of all the Distributed Products in its possession and shall return all the advertising, promotional and technical sales assistance material and other material furnished by [YOUR COMPANY NAME]. [YOUR COMPANY NAME] is entitled to repurchase all or part of such Distributed Products from the Dealer after a corresponding written notification. The price will be negotiated between the parties. Nevertheless, for the products contained in unopened original packaging, the price shall in no case exceed the prices paid by the Dealer. The prices of the other Distributed Products shall not be higher than [%] of the price at which such products were purchased by the Dealer.

11.7.2 The aggregate of the amounts due by the Dealer shall become due and payable on the effective date of termination, even if payment terms had been granted. The effective termination of the agreement by either party shall cancel as of right all undelivered orders.

11.7.3 The Dealer shall cease to use the trademarks and trade names of [YOUR COMPANY NAME] and third parties, *in re*spect of the Distributed Products, except for those used for the sale of the Distributed Products which remain in the possession of the Dealer, which use must not exceed a period of [NUMBER] days following the effective date of the termination.

# 12 WARRANTIES

Except for the warranty set out on the warranty card accompanying the Distributed Products, [YOUR COMPANY NAME] provides no other warranty as to the performance of such products *in re*spect of the Dealer or any other person. In any event, the liability of [YOUR COMPANY NAME] is limited to the price effectively paid by the Dealer for the Distributed Product and may in no case include a loss of profit or indirect damage of any nature whatsoever. [YOUR COMPANY NAME] reserves the right to modify the terms and conditions of the warranty card at any time.

# 13 NOTICES

Any notice provided for in this agreement shall be given by registered letter with acknowledgement of receipt to the address as indicated in this agreement or any other address of which either of the parties has given notice to the other.

# 14 WAIVER

Any waiver by [YOUR COMPANY NAME] to sanction a breach of this agreement shall be made in writing and will be effective only to the extent indicated therein, and shall not be construed as a waiver of any suit in the event of any subsequent failure of the Dealer.

# 15 ASSIGNMENT

The Dealer undertakes not to assign, delegate, transfer or sell any of the rights, duties or obligations which are incumbent thereon pursuant to this agreement.

# 16 ENTIRE AGREEMENT

This agreement contains the entire understanding of the parties and cancels and supersedes all prior discussions and agreements between the parties, whether written or oral.

# 17 SURVIVAL OF THE OBLIGATIONS

All obligations which by their very nature continue beyond the termination of this agreement shall survive the expiration or termination hereof.

# 18 JURISDICTION

This Agreement shall be interpreted under the laws of the [Province] of the [COUNTRY]. Any and all legal actions relative hereto shall be in the courts of the [Province] of [COUNTRY].

# 19 INVALIDITY

In the event that any of the clauses hereof be invalid, unlawful or unenforceable, the validity, legality and enforcement of all the other clauses shall not be affected thereby in any manner whatsoever.

# 20 HEADINGS

The headings of the sections in this agreement are provided for convenience of reference only and shall not be construed or interpreted as limiting or affecting the substance of the provisions hereof.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at [PLACE OF EXECUTION] on the date indicated above.

COMPANY DEALER

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

# SCHEDULE A - LIST & DESCRIPTION OF GOODS BEING DISTRIBUTED

## SCHEDULE B - CERTIFIED DISTRIBUTION OUTLETS

1. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

2. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

3. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

4. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

5. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

6. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

7. (NAME OF DEALER)

(PHYSICAL ADDRESS)

(POSTAL ADDRESS)

(TEL & EMAIL ADDRESS)

(MANAGER NAME)

# SCHEDULE C

**THE NEW REBATE SYSTEM**

Each Dealer shall obtain a rebate which shall apply thereto at least for one quarter. The rebate rate applies to all orders, regardless of their amounts. The rebate rate is valid both for central processing units and for options. The number of central processing units delivered in the last quarter is the criterion used to determine rebate rate classification.

There are three rebate categories:

(1) From 50 SYSTEMPRO CENTRAL PROCESSING : 41% except

UNITS PER QUARTER AND 486/25, on which your rebate will be : 39%

(2) From 25 SYSTEMPRO CENTRAL PROCESSING : 37% except

UNITS PER QUARTER AND 486/25, on which your rebate will be : 35%

(3) From 06 SYSTEMPRO CENTRAL PROCESSING : 34% except

UNITS PER QUARTER AND 486/25, on which your rebate will be : 32%

The first classification is based on the quantity of central processing units ordered in the first months of each year. For new Dealers, a personal evaluation will serve as the basis for the first classification.

A new classification may be considered at the beginning of a quarter.