

SoftPLC CORPORATION DISTRIBUTOR AGREEMENT

THIS AGREEMENT by and between SoftPLC Corporation, a Texas Corporation with primary offices at 25603 Red Brangus Drive, Spicewood, TX 78669, hereinafter referred to as "SoftPLC Corp", and _____, hereinafter referred to as "Distributor" with primary offices

at _____,

a(n) _____ is as follows:

WITNESSETH THAT:

WHEREAS, SoftPLC Corp is engaged in the business of producing and selling licenses for software products, industrial computer and I/O hardware products, and associated other goods, hereinafter referred to as "Products", and;

WHEREAS, Distributor is engaged in the business of specifying, selling, and supporting products manufactured by various manufacturers and wishes to act as a Distributor for SoftPLC Corp's Products,

NOW, THEREFORE, in consideration of the premises and the mutual promises and covenants of the parties hereinafter set forth, the parties hereto agree as follows:

1. APPOINTMENT OF DISTRIBUTOR

- A. SoftPLC Corp grants Distributor non-exclusive permission to solicit orders for the Products outlined in "Attachment A". Distributor acknowledges that the software Products are copyrighted and are protected under federal copyright law (TITLE 17 UNITED STATES CODE) and that SoftPLC Corp makes the software available for use only under terms of a software Licensing Agreement. Actual ownership of the software always stays with SoftPLC Corp.
- B. Distributor agrees to promote, sell and service the Products as listed in "Attachment A". Distributor agrees to purchase minimum Demonstration products (as listed in Attachment A).
- C. Area of Primary Responsibility - Distributor is authorized to sell SoftPLC products in the geographical area defined in "Attachment B".

2. REPRESENTATIONS AND WARRANTIES OF DISTRIBUTOR

Distributor represents and warrants that it has the support and service facilities, the financial capability, and the personnel with knowledge and skills necessary to enable it to properly specify, sell, and support SoftPLC Corp's Products. Distributor agrees that during the term of this Agreement it shall at its sole expense:

- A. Faithfully and diligently use, promote and resell the Products, maintain at least one individual on staff capable of using and servicing the Products, and cooperate with SoftPLC Corp in maximizing sales of the Products for the mutual benefit of the parties hereto;
- B. Ensure that at least one (1) individual attend SoftPLC Distributor Training/Update meetings on an annual basis, or as they are scheduled ;
- C. Determine the suitability of a Product for use on the intended equipment and for the intended application prior to ordering; and
- D. Consistently assist SoftPLC Corp with the administration of the Authorized SoftPLC System Integrators within their Area of Primary Responsibility. This includes promoting the sale of the Products and complying with the discount schedule to which the Systems Integrator is entitled.

3. PROMOTION

- A. SoftPLC Corp agrees to furnish to Distributor, at no charge, reasonable quantities of literature and sales aids as SoftPLC Corp deems appropriate.
- B. SoftPLC Corp agrees to furnish on a consignment basis for the term of this agreement, software Products as outlined in "Attachment A" solely for Distributor's internal use and for demonstration to customers.
- C. SoftPLC Corp and Distributor shall, at least annually, develop a Mutual Business Plan to outline sales and marketing goals and activities. During each year, SoftPLC Corp. and Distributor representatives will continually review status vs. the Plan, and update and modify the Plan as needed at least on a quarterly basis.

4. PURCHASE OF PRODUCTS

- A. All orders for Products shall be confirmed by Distributor's written purchase order. All sales of Products to Distributor shall be made in accordance with, and subject to, the standard SoftPLC Corp Terms of Sale (as modified, however, by the terms hereof). SoftPLC Corp reserves the right to change such terms and conditions of sale at any time effective upon SoftPLC Corp's giving written notice of such change to Distributor.
- B. No order shall be binding upon SoftPLC Corp until accepted in writing by an officer of SoftPLC Corp. SoftPLC Corp shall have the right to refuse the acceptance of any order.

5. PRICES

- A. The prices to be paid by Distributor for Products purchased by Distributor shall be those prices set forth on SoftPLC Corp's then current published U.S. Price List (Publication MISC-PL-1) according to the then current Distributor Discount Schedule (Publication MISC-PL-5). SoftPLC Corp agrees that it will attempt to advise Distributor promptly in writing at least thirty days before any revisions are effective. Orders placed with respect to outstanding quotations will be accepted by SoftPLC Corp in accordance with the terms of the quotations until the expiration of the quotation or thirty days after SoftPLC Corp has given Distributor written notice of the revision, whichever comes first. This period may be extended with the written approval of an officer of SoftPLC Corp.
- B. In certain situations, it may be deemed necessary for SoftPLC Corp to do business directly with customers. In these cases, Distributor may receive a commission or finder's fee payment negotiated in advance between SoftPLC Corp and Distributor on a case-by-case basis. These commissions would be issued as credits to the Distributor balance due to SoftPLC Corp, effective on the first day of month after the month in which SoftPLC receives payment from the customer.

6. TERMS OF PAYMENT

If Distributor fails to make timely payment to SoftPLC Corp in accordance with the Terms of Sale, SoftPLC Corp, at their sole discretion, will reduce or eliminate any applicable discount provided to the Distributor on the invoice or invoices which are past due. If Distributor fails to make timely payment of any invoice or invoices, SoftPLC Corp shall have the option to cease further shipments of Products to Distributor, or to alter the terms of payment to require payment prior to shipment or on a C.O.D. basis, or to terminate this Agreement pursuant to Section 13 hereof.

7. TITLE AND RISK OF LOSS

Delivery of each Product shall occur, and title and risk of loss shall pass from SoftPLC Corp to Distributor when the Product shall have been delivered F.O.B. to a carrier from SoftPLC Corp's dock addressed to Distributor. All freight and insurance costs shall be paid by Distributor.

8. WARRANTIES

- A. THE WARRANTIES IN SOFTPLC CORP'S TERMS AND CONDITIONS OF SALE IN EFFECT AT THE TIME OF ACCEPTANCE OF AN ORDER SHALL BE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SOFTPLC CORP'S SOLE AND EXCLUSIVE LIABILITY ARISING OUT OF OR IN CONNECTION WITH ANY SALE SHALL BE TO REPAIR OR REPLACE THE PRODUCT SOLD, OR AT SOFTPLC CORP'S OPTION, REFUND THE PURCHASE PRICE AS SET FORTH IN SUCH TERMS AND CONDITIONS, AND IT SHALL HAVE NO FURTHER LIABILITY, WHERE IN TORT, CONTRACT OR OTHERWISE, HEREUNDER OR THEREUNDER. SOFTPLC CORP SHALL UNDER NO CIRCUMSTANCES BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES;
- B. Distributor shall make no representation or warranty concerning the quality, performance or other characteristics of Products other than those which are consistent in all respects with, and do not expand the scope of, the warranties described in SoftPLC Corp's Terms of Sale.

9. SOFTWARE LICENSE

- A. Distributor acknowledges that software Products are copyrighted and are protected under federal copyright law (TITLE 17 UNITED STATES CODE) and that SoftPLC Corp makes the software available for use only under terms of a software Licensing Agreement. Actual ownership of the software always stays with SoftPLC Corp. Technically, only a "License to Use" is sold. A License Agreement is included with each Product when it leaves SoftPLC Corp. It is the Distributor's responsibility to inform its customers of the importance of the License Agreement and to insure that the customer executes the License Agreement for each sale.
- B. Distributor acknowledges that it has no proprietary rights to any part of the Products nor to any printed materials, drawings, instructions, brochures or literature of any type which the Distributor may receive from SoftPLC Corp with regard to the Products.
- C. Distributor shall promptly report to SoftPLC Corp the existence of any and all programming or operation errors in the Products.
- D. Distributor shall (i) not in any form whatsoever reproduce, alter or amend the Products and (ii) use its best efforts to ensure that its customers shall not reproduce, alter or amend the Products except in accordance with customer's representative License Agreement.
- E. Distributor shall give SoftPLC Corp prompt notice if it receives any information indicating, or if it has reason to suspect, the actual or intended breach by any customer of its Software License Agreement.

10. CHANGES IN PRODUCTS

SoftPLC Corp reserves the right to discontinue the manufacture or sale of any make or type of Products or any part thereof and the right to improve or change the design of such Products. SoftPLC Corp also reserves the right at any time to add or delete any item from the list of Products covered by this Agreement.

11. TRADEMARKS

During the term of this Agreement, Distributor may use as selling aids, the trademarks and brand names identifying the Products so long as such use is consistent with how the trademarks and brand names are actually affixed upon Products or upon the cartons or containers in which said Products are packaged or sold by SoftPLC Corp. Distributor shall not remove or obscure SoftPLC Corp's trademarks or brand names from any Products furnished by SoftPLC Corp. All rights in said trademarks and brand names shall, at all times during the term of this Agreement and thereafter, be and remain the sole property of SoftPLC Corp. Distributor is authorized to use SoftPLC Corp trade names and marks applicable to the SoftPLC Corp products marketed in accordance with SoftPLC Corp policies.

12. CONFIDENTIAL INFORMATION

Distributor and SoftPLC Corp will mutually hold confidential all of the other party's trade secrets or any part thereof and shall not utilize such trade secrets for any purpose other than those of mutual business or disclose such trade secrets to any person whomsoever for any reason or purpose whatsoever, except as may be specifically authorized by the holder of the trade secret in writing. A "trade secret" shall mean information (whether in document form or not), which is not known or available to others in the trade, concerning the products, manufacturing methods, processes or techniques, treatment and compositions of materials, plant layouts and tooling, customer lists, financial and cost information and the like which one party may provide to the other or concerning which one party may learn during the term of this Agreement, and which has not been disclosed to others except persons in a similar confidential relationship and who have an obligation not to disclose such information.

13. TERMINATION

- A. Either party may, upon written notice, terminate this Agreement at will, with or without cause, effective on the Termination Date as defined herein. The Termination Date shall be 30 days after date of the written notice.
- B. In addition to the foregoing, SoftPLC Corp may terminate this agreement by notice in writing to Distributor, effective immediately upon its sending, if Distributor shall fail to; i) make timely payment of any invoice; ii) shall file a petition in bankruptcy; iii) shall voluntarily institute proceedings to be adjudicated for bankruptcy; iv) shall take advantage of the insolvency laws of any jurisdiction to which it is subject; v) shall make an assignment for the benefit of creditors; vi) shall be voluntarily or involuntarily dissolved; vii) shall admit in writing its inability to pay debts as they come due; or viii) shall have a receiver, trustee, or other court officer appointed for its property.
- C. Upon any termination or expiration of this Agreement, (i) Distributor shall immediately return to SoftPLC Corp all consigned products, sales materials, price lists, customer lists and user's guides, (ii) all amounts due or to become due are payable immediately, and (iii) Distributor agrees to cease all use of SoftPLC Corp trade names and marks.
- D. Distributor and SoftPLC Corp agree that the obligations of confidentiality shall survive any termination of this Agreement.

14. DISTRIBUTOR NOT TO BIND SOFTPLC

This Agreement shall not constitute Distributor as the agent or legal representative of SoftPLC Corp for any purpose whatsoever and Distributor shall not hold itself out directly or by implication as an agent of SoftPLC Corp. Distributor shall function in all respects hereunder as an independent agent purchasing and reselling SoftPLC Corp's Products for its own account. This Agreement creates no relationship of joint venturers, partners, associates, employment, or principal and agent between the parties, and both are acting as principals. Distributor shall not in any manner assume or create any obligation on behalf of or in the name of SoftPLC Corp. Distributor shall not have any authority to bind SoftPLC Corp to any contract of employment, and Distributor shall bear all of its own expenses for its operations. Distributor shall be solely responsible for its own employees and representatives and for their acts and all things done by them.

15. MISCELLANEOUS

- A. This Agreement (including any Attachments or Exhibits) sets forth the entire agreement between SoftPLC Corp and Distributor concerning the subject matter herein and supersedes all other agreements, arrangements and understandings. Provision hereof shall be binding upon any party hereto unless such amendment or modification shall be in writing and signed by an officer of each of the parties.
- B. No waiver by SoftPLC Corp of any default hereunder shall operate as a waiver of any other default or of a similar default on a future occasion. No waiver of any term or condition hereof by SoftPLC Corp shall be effective unless the same be in writing and signed by an officer of SoftPLC Corp.

- C. SoftPLC Corp shall not be liable for delay in performance of any obligation under this Agreement if such failure or delay is caused by circumstances not directly under SoftPLC Corp's control, including without limitations, failures or delay resulting from force majeure strikes, fires, or failures or delays of suppliers or carriers. In no event shall SoftPLC Corp be liable to Distributor for indirect, special or consequential damages or for loss of anticipated profits. NO PENALTY CLAUSE OF ANY KIND, IN ANY SPECIFICATION OR ORDER, SHALL BE EFFECTIVE AGAINST SOFTPLC CORP.
- D. This Agreement shall be governed by and construed and enforced in accordance with, the substantive laws of the State of Texas. If any provision of this Agreement is deemed to be unlawful, invalid, or unenforceable, such provision shall be deemed severable and all other provisions shall remain in force. If any dispute regarding this Agreement arises, Distributor hereby submits to and limits litigation concerning this agreement to the jurisdiction and venue of the State of Texas.
- E. This Agreement shall be binding upon, and inure to the benefit of, SoftPLC Corp and Distributor and their respective legal representatives, successors and permitted assigns. This Agreement may be assigned by SoftPLC Corp without consent of Distributor. However, this Agreement is personal to Distributor, and Distributor may not assign or transfer it in any manner without the prior consent of SoftPLC Corp. SoftPLC Corp reserves the right to withdraw its consent to assign or transfer this agreement for any reason.
- F. All notices to be given hereunder shall be in writing and shall be effective when sent by registered or certified mail, postage prepaid, duly addressed to the party at the address listed on the initial page hereof or to such other address as the addressee may have subsequently delivered to the other party hereto.
- G. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, SoftPLC Corp and Distributor have executed this Agreement by their duly authorized representatives as of the day and year written.

For Distributor:

Firm: _____

Signature: _____

Name: _____

Title: _____

Address: _____

Date: _____

For SoftPLC Corporation:

Signature: _____

Name: Cynthia M. Hollenbeck

Title: Vice President

Address: 25603 Red Brangus Drive
 Spicewood, TX 78669 USA

Date: _____

SoftPLC Corporation Distributor Agreement

Attachment A

"Authorized Products"

- ◆ Distributor is authorized to solicit orders for:

All Products listed in SoftPLC Corp's Price List (Publication Number MISC-PL-1).
Other Products as agreed to in advance between SoftPLC Corp and Distributor.

- ◆ Distributor will receive the following Products on consignment for the term of this Agreement (no upgrade/support fees, but must be returned at termination of Agreement):

(1) TDNG-FN	TOPDOC NexGen
(1) SPZ-LT	SoftPLC Runtime Kernel (installed in demo CPUs)
(1) SPZ-WEB	SoftPLC Web Server (installed in demo CPUs)

- ◆ Distributor is required to purchase at a minimum the following demonstration Products:

(1) Smart SoftPLC w/ Backplane3 and A-B RIO interface
(1) Tealware Output Module *TBD*

- ◆ Distributor may purchase at a 50% discount from List Price the following Products on consignment (no upgrade/support fees, but must be returned at termination of Agreement):

(1) SSD-15X	WebStudio Development/Runtime Software
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SoftPLC Corporation Distributor Agreement
Attachment B
"Area of Primary Responsibility"