

## JonyJib DEALER AGREEMENT

This Dealer Agreement (the "Agreement") is made and entered into by and between **JonyJib** ("JonyJib"), a California company having a principal place of business at **2494 Acme Court Turlock California 95380**,

and \_\_\_\_\_ ("Dealer"), having a place of business at

\_\_\_\_\_  
("Dealer's Business Address/City/State/Zip"). In consideration of the mutual covenants contained in this Agreement, JonyJib and Dealer agree as follows:

**1. Appointment as a Dealer.** JonyJib hereby appoints Dealer as an "Authorized JonyJib Hardware and Software Dealer", at Dealer's Business Location for JonyJib products ("Hardware and Software") provided to Dealer by JonyJib. As an authorized JonyJib Hardware and Software Dealer, dealer shall have the non-exclusive and non-transferable right, for the term and subject to the conditions of this agreement, to market and sell only to end users, JonyJib products, which includes Hardware and Software, its documentation, and related materials, in the form, and if packaged by JonyJib the packaging, supplied by JonyJib. The Dealer shall use its best efforts to sell and promote the sale of JonyJib products.

**2. Orders and Delivery.** Dealer may order products either by written purchase order or by a telephone order followed by written confirmation. All orders accepted by JonyJib, whether or not delivery dates are specified therein, may be subject to delays or failures in manufacture or in delivery due to any cause beyond the control of JonyJib. Orders for the Licensed Products shall be submitted to a Marketing Representative of JonyJib and are subject to delays or failures in manufacture or in delivery due to any cause beyond the control of JonyJib. Orders shall be shipped F.O.B. JonyJib's warehouse (Turlock, CA) and to the "SHIP TO" address specified by Dealer. Dealer shall examine the Licensed Products upon arrival at the SHIP TO address, and within ten (10) days of arrival, shall supply the JonyJib Marketing Representative with a written list of all items not delivered pursuant to Dealer's order. Delivery shall be deemed to be complete, and the Licensed Products accepted, pursuant to said order, if the Marketing Representative does not receive the written list within ten (10) days of delivery. The delivered Licensed Products shall be held at risk of Dealer or the SHIP TO party. All freight, insurance, duty, value added tax, sales tax, use tax, or excise tax applicable to the sale of product shall be paid by Dealer in addition to the current dealer price.

**3. Technical Support.** JonyJib will provide telephone technical support as Dealer may reasonably request, without charge to Dealer's technical support personnel during regular working hours (8:00 am to 5:00 pm United States Pacific Time). Technical support to Dealer's End-User customers is the responsibility of Dealer.

**4. Disclaimer of Warranty.** ALL HARDWARE PRODUCTS DELIVERED PURSUANT TO THIS AGREEMENT ARE DELIVERED WITH A TWO YEAR LIMITED WARRANTY. JONYJIB SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES OTHERWISE, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH REGARD TO ALL OF THE HARDWARE PRODUCTS.

**5. Warranties by Dealer to Customer.** Dealer agrees that any and all extended warranties made to customers of Dealer shall be made only by Dealer. Dealer acknowledges and agrees that Dealer will make no representation or warranties to its customers with respect to or on behalf of JonyJib. Dealer hereby agrees to indemnify JonyJib for any cost, loss, or liability arising out of Dealer's failure to comply with Dealer's obligations hereunder with respect to extended warranties.

**6. Limitation of Liability.** JONYJIB SHALL NOT BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS OR GOODWILL, LOSS OF USE OR OF DATA, INTERRUPTION OF BUSINESS, NOR OF INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND UNDER OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, BREACH OR REPUDIATION OF CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE EVEN IF JONYJIB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. IN NO EVENT WILL JONYJIB'S LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT RECEIVED BY JONYJIB FROM DEALER DURING THE THREE (3) MONTH PERIOD PRECEDING THE DISPUTE GIVING RISE TO SUCH LIABILITY UNDER, ARISING OUT OF, OR IN ANY WAY RELATED TO THIS AGREEMENT.

**7. Ownership of Software.** Dealer acknowledges that, subject only to the licenses specifically granted herein, all right, title, and interest in the Software encoded on the Licensed Products provided to Dealer, and the media on which they are encoded, are the property of JonyJib, or its licensors, and that the Company, its employees, agents, representatives, successors, assigns and customers, shall not have, at any time, any proprietary interest in or to this Software or the concepts embodied herein. DEALER ACKNOWLEDGES THAT THE LICENSED PRODUCTS ARE COPYRIGHTED, AS NOTICED ON THE LICENSED PRODUCTS, AND THAT DEALER IS NOT AUTHORIZED TO REPRODUCE ANY COPIES OF THE LICENSED PRODUCTS, NOR AUTHORIZED TO LICENSE OTHERS TO REPRODUCE ANY COPIES OF THE LICENSED PRODUCTS.

**8. Hardware and Software Protection.** Dealer agrees that all Licensed Products delivered by JonyJib are secret and valuable product in which JonyJib has a proprietary interest. Dealer represents that Dealer will not infringe on the rights of JonyJib in the Licensed Products and that Dealer will make every reasonable effort to protect the proprietary interest of JonyJib in the Licensed Products. Dealer agrees not to alter or remove any copyright notices or other notices of proprietary interest in the Licensed Products, or other materials supplied by JonyJib.

**9. Dealer as an Independent Contractor.** Dealer shall be deemed to be an independent contractor hereunder, and as such, Dealer shall not be nor hold itself out to be an employee or agent of JonyJib. JonyJib expressly prohibits any direct or indirect use, reference to, or other employment of its name, trademarks, service marks, or trade names, except as expressly provided for in this Agreement.

**10. Termination.** This Agreement shall be in effect for one (1) year, except that it may be terminated or renewed by either party upon thirty (30) days written notice to the other party. Any monies paid by Dealer to JonyJib shall not be affected by termination. In the event of termination or non-renewal of this Agreement for any reason, neither party shall be liable to the other because of such termination or non-renewal, for compensation, reimbursement or damages on amount of loss of prospective profits or anticipated sales, or on account of expenditures, inventories, investments, leases, or commitments in connection with the business or good will of Dealer or JonyJib. On the termination of this agreement for any reason, JonyJib shall have the option to repurchase its products in the possession of the Dealer and available for sale, at prices originally billed to the Dealer and with deductions for monies due or to become due to JonyJib under this agreement.

**11. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. The terms of this agreement are severable, and in the event that any portion of this agreement shall be found to be unenforceable, the remainder of the agreement shall remain in full force and effect.

**12. Forum Selection; Consent to Jurisdiction.** The California Superior Courts of Stanislaus County, California (or, if there is exclusive federal jurisdiction, the United States District Court for Central California) shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement, and Dealer hereby consents to the jurisdiction of such courts.

**DEALER ACKNOWLEDGES THAT HE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.** Further, Dealer agrees that this agreement is the complete and exclusive statement which is the Agreement between the parties and supersedes all proposals and prior agreements, whether written or oral, and all other communications between the parties relating to the subject matter of this Agreement cannot be modified except by a writing signed by both Dealer and JonyJib.

**JONYJIB**

**DEALER**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

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Title

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