



Approved Vendor

## DISTRIBUTOR APPLICATION FORM

<b>FOR OFFICE USE ONLY</b>	ACCOUNT NO: Region / Code
INVOICE:	CREDIT LIMIT:
CLEARED:	STATUS:
APPROVED:	DATE:

### EDT'S OBLIGATIONS TO DISTRIBUTOR

EDT represents that it is equipped to extend the following services to Distributor:

- The availability of assistance from EDT's sales and marketing personnel to lend support via promotional programs and selling aids.
- The availability of qualified technical assistance.
- Maintenance of high standards of product quality.
- The availability of education and sales assistance for the Distributor's sales representatives.
- Listing on our web site as a distributor
- Access to distributor web site
- Preview of upcoming products

### DISTRIBUTOR'S OBLIGATIONS TO EDT

The Distributor represents that its place of business is equipped to extend at least the following services to EDT and Distributor acknowledges that breach of any of the following obligations is material to proper performance hereunder and shall constitute grounds for termination by EDT.

- Maintain a satisfactory credit relationship with EDT.
- Maintain warehouse facilities, delivery facilities and stock of Product per attached schedule A adequate to provide customer service out of Distributor's stock.
- Maintain well trained, competently directed and managed sales representatives qualified to serve the markets intending to be reached.
- Sell, promote and advertise EDT products to best generate increased sales of these products. Neither Distributor nor any of its sales representatives will disparage EDT Products, but rather will promote them in a manner and with the energy necessary to create as widespread a demand as possible.
- Annually review previous year's sales and agree to a minimum acceptable sales level for the ensuing year commensurate with the overall sales of Products and sales by other Distributors of Products.
- Cooperate with EDT in preparing reports, order forecasts, and other information concerning sales. Distributor shall follow all reasonable recommendations as to marketing policy and shall take such action(s) to preserve and enhance EDT's good will and reputation as EDT reasonably may request.
- Provide EDT with monthly sell through reports showing the dollar amount and geographical location of each shipment of EDT product within 30 days of the end of the month.
- Inclusion of products in catalogs ( catalogs must be sent to EDT each quarter )
- Inclusion of products on distributors web site
- Regular advertising of products to customers
- Display of products in showroom
- Minimum purchases to the value of \$50,000 per year to maintain distributorship.
- Handling of product returns and all warranty issues
- Agree not to resell products for less than Minimum Resell Price (MRP) publish anything less than MRP pricing on the web or dealer literature
- Agree that any pricing accessible by the general public shall not be less than MAP.

### ORDER TERMS AND RETURNS

- **Initial Stocking Order.** Initial Distributor stocking order is for a minimum of \$10,000 or as mutually agreed by quote # \_\_\_\_\_. Distributor will issue this initial order at the time this agreement is signed.
- **Orders.** Orders by Distributor shall be subject to acceptance by EDT in Longview, Texas, or such other place(s) as may be designated by EDT. Except as modified by this Agreement, all orders shall be accepted subject to the terms and conditions of EDT's then current Terms and Conditions of Sale ("Order Terms"), the current version of which is attached hereto and incorporated herein by reference.
- **Price and Terms.** The price and terms to Distributor for Product shall be the published Authorized Distributor Price List in effect on the date of acceptance of an initial order by EDT. Any price or term may be changed by EDT upon thirty (30) days written notice to Distributor.
- **Price Increase.** Distributor will receive notice of a price increase thirty (30) days in advance and may order at the old (lower) price until the effective date of the price change. Product ordered for deliveries beyond the effective date of the price change cannot be scheduled by Distributor to ship more than thirty (30) days after the effective date of the price change at the old (lower) price.
- **Returns.** Distributor may return any Product using EDT's RMA system as set forth by EDT.
- **Payment Terms:** All payments on orders are due within thirty (30) days from the delivery date. Past due accounts will accrue interest at the rate of eighteen percent (18%) per annum (1 1/2% per month). In the event that EDT take steps to collect on the amount, whether by employing an attorney or otherwise, Distributor and all personal guarantors will be liable for all costs associated with collecting the account, including reasonable attorneys' fees, regardless of whether litigation or arbitration is commenced. All deductions must be approved in writing by EDT.
- **Supply of Product.** Distributor shall provide the company with written notice of orders at least thirty (30) days in advance of the requested delivery date. All orders for the product are due by the tenth (10th) day of each month for delivery the following month. While the Company will endeavor to have the product delivered on or before the delivery date, the failure of the Company to do so will not be deemed a default by the Company of the terms of this Agreement and the Company will not be liable to the Distributor or any third-parties on account of the late delivery, nor shall Distributor be relieved from its obligation to pay the full price for the products ordered. Sales are considered final upon the delivery of the product in marketable condition.

### WARRANTY AND DISCLAIMER: REMEDY; LIMITATION OF LIABILITY

- **WARRANTY AND DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTY CONTAINED IN THE LIMITED WARRANTY, EDT MAKES NO REPRESENTATION OF WARRANTY, EXPRESS OR IMPLIED (INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) CONCERNING ANY PRODUCT. ALL OTHER GUARANTEES, WARRANTIES, CONDITIONS AND REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WHETHER ARISING UNDER ANY STATUTE, LAW, COMMERCIAL USAGE OR OTHERWISE, ARE HEREBY EXCLUDED.
- **REMEDY FOR BREACH OF WARRANTY.** DISTRIBUTOR ACKNOWLEDGES AND AGREES THAT EDT'S SOLE RESPONSIBILITY IN THE CASE OF BREACH OF THE FOREGOING WARRANTY SHALL BE FOR EDT, AT EDT'S ELECTION, TO REPAIR OR PROVIDE A REPLACEMENT FOR THE PRODUCT OR THAT PORTION OF THE PRODUCT WITH RESPECT TO WHICH SUCH WARRANTY IS BREACHED OR TO RETURN ALL PAYMENTS MADE WITH RESPECT TO SUCH PRODUCT OR PORTION THEREOF.
- **LIMITATION OF LIABILITY.** IN NO EVENT, INCLUDING BREACH OR NON-FULFILLMENT OF THE FOREGOING LIMITED REMEDY, SHALL EDT BE LIABLE FOR LOSS OF PROFITS OR INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES OF ANY KIND.

### TERM AND TERMINATION

- Events of Termination. This Agreement shall remain in effect for the per EDT commencing on the date first written above and expiring December 31 of the same year. This Agreement shall automatically be extended for additional, consecutive terms of one year, unless prior to the thirtieth (30th) day before the end of the initial term or of any succeeding term, as the case may be, either party to this Agreement gives written notice to the other party that the Agreement will not be renewed beyond the then current term. In such event, this Agreement shall terminate at the end of such term.
- In addition, this Agreement may be terminated as follows:
  - a) By Distributor or EDT for any reason upon ninety (90) days prior written notice;
  - b) by mutual consent in writing at any time;
  - c) by either party immediately upon the giving of notice that the other party is in breach of any of its material obligations under this Agreement or under the Order Terms and Conditions.
  - d) by EDT immediately (i) if, without EDT' prior written consent, control of more than twenty-five (25) percent of the ownership of Distributor or substantially all of Distributor's assets are transferred to a person or entity; (ii) if any proceeding in bankruptcy, reorganization or arrangement for the appointment of a receiver or trustee to take possession of Distributor's assets or any other proceeding under any law for the relief of creditors shall be instituted by or against Distributor; or if (iii) Distributor shall make an assignment for the benefit of its creditors.
  - e) Distributor agrees that Distributor immediately shall give written notice to EDT of the occurrence of any event of the type described in section (d) above.
- Rights and Obligations Upon Termination. All orders from Distributor not shipped on the date that notice of termination of this Agreement is delivered or on the date that this Agreement otherwise terminates may be deemed canceled at EDT' discretion. Upon termination of this Agreement, Distributor shall cease all conduct, which might cause anyone to believe that Distributor is a distributor of Products or otherwise connected with EDT.
- NO DAMAGES ARISING FROM TERMINATION. DISTRIBUTOR ACKNOWLEDGES AND AGREES THAT EDT SHALL BE UNDER NO OBLIGATION TO RENEW OR EXTEND THIS AGREEMENT NOTWITHSTANDING ANY ORDERS PLACED BY DISTRIBUTOR OR ANY OTHER ACTIONS TAKEN BY EITHER OR BOTH PARTIES PRIOR TO TERMINATION OF THIS AGREEMENT. DISTRIBUTOR AGREES THAT UPON TERMINATION OF THIS AGREEMENT FOR ANY REASON, EDT SHALL NOT BE LIABLE TO DISTRIBUTOR FOR ANY TERMINATION COMPENSATION WHETHER BASED UPON GOOD WILL ESTABLISHED, CLIENTELE OR PURCHASERS OBTAINED, EXPENDITURES INCURRED, INVESTMENTS MADE BY DISTRIBUTOR OR OTHERWISE. UPON TERMINATION OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY DAMAGES (WHETHER DIRECT, CONSEQUENTIAL, OR INCIDENTAL, INCLUDING EXPENDITURES, LOSS OF PROFITS OR PROSPECTIVE PROFITS OF ANY KIND) ARISING OUT OF SUCH TERMINATION. SUCH TERMINATION SHALL NOT, HOWEVER, EXCUSE EITHER PARTY FROM BREACH OF THIS AGREEMENT OR OF THE ORDER TERMS OR FROM ANY OTHER OBLIGATION SURVIVING TERMINATION OF THIS AGREEMENT, AND FULL LEGAL AND EQUITABLE REMEDIES SHALL REMAIN AVAILABLE FOR ANY BREACH OF THIS AGREEMENT OR OF THE ORDER TERMS.

### MISCELLANEOUS

- **Entire Agreement.** This Agreement (together with the attachments may be amended from time to time in accordance with this Agreement) constitutes the entire Agreement between EDT and Distributor with respect to the subject matter hereof. All prior or contemporary agreements, whether written or oral, and all proposals, understandings and communications between or involving EDT and Distributor are hereby canceled and superseded, except that this Agreement shall not relieve either party from making payments which may be due and owing under any agreement or contract made prior to the date hereof. Only writing executed by both parties may amend this Agreement.

- **Controlling Law; Consent to Jurisdiction.** This Agreement is entered into and will be deemed for all purposes to have been made in Longview, Texas, and shall be governed by and construed in accordance with the laws of the State of Texas applicable to contracts and agreements made and wholly to be performed in Texas by residents of Texas. The parties agree that the exclusive jurisdiction and venue of any action with respect to this Agreement shall be in the Superior Court of Texas for the County of Gregg and the United States District Court for the District of East Texas, and each of the parties hereby submits itself to the exclusive jurisdiction and venue of such courts for purposes of such action.
- **Waiver.** Any waiver by either party to this Agreement of any provision of this Agreement shall not be construed as a waiver of any other provision of this Agreement, nor shall such waiver be construed as a waiver of such provision with respect to any other event or circumstance, whether past, present or future.
- **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, the remaining provisions shall be enforceable to the maximum extent possible.
- **Successors and Assigns.** This Agreement shall inure to the benefit of EDT and EDT's successors and assigns, and EDT may assign all or any portion of this Agreement and its duties hereunder. EDT shall give Distributor written notice of any such assignment. Distributor acknowledges that EDT has entered into this Agreement after consideration of the unique talents and experience of Distributor. Because EDT has entered into this Agreement upon the basis of the particular abilities of Distributor, Distributor may not assign any of Distributor's rights or obligations under this Agreement without the prior written consent of EDT. Any attempt by Distributor to assign this Agreement in contravention of this Section shall be null and void.
- **EDT Direct Sales.** It is agreed that the execution of this agreement shall not limit EDT's right to sell EDT products directly in those markets and/or territories covered by the Distributor.
- **Authorized Distributor Agreements.** EDT reserves the right to appoint other Authorized Distributors of EDT products at any time.
- **Change of Products.** EDT shall have the right at any time and from time to time, upon thirty (30) days written notice to Distributor, to cease to manufacture and sell, or to supersede, any and all Products.
- **Advertising.** Distributor agrees that it will obtain written approval from EDT on all advertising for Products prior to publication.
- **Force Majeure.** Neither EDT nor Distributor shall be liable for its failure to perform its obligations under this Agreement due to events beyond its reasonable control including, but not limited to, strikes, riots, wars, fire, acts of God, and acts in compliance with any applicable law, regulation, or order (whether valid or invalid) of any governmental body.
- **Use of Trademarks and Copyrighted Material.** Distributor shall not use or permit use by any person, any trademarks, service marks or trade names of EDT without EDT's prior written consent. Distributor shall not make any copies of EDT's copyrighted material including, but not limited to, any printed matter concerning any product, without EDT's prior written consent. If Distributor wishes to translate the verbiage on EDT literature into another language and print such revised literature for use in promoting EDT products, Distributor must submit a printed copy of the revised literature to EDT and receive from EDT written approval to use such literature prior to any use of literature.
- **No Conflict for Distributor.** Distributor represents, warrants and agrees that Distributor is not and will not be a party to, or be bound by, any agreement or understanding, either oral or written, which conflicts with or purports to prohibit Distributor from entering into or performing any term or provision of this Agreement or selling products or acting as EDT's authorized distributor of Products to EDT purchasers in the Territory.
- **Notices.** Any notice contemplated by or made pursuant to this Agreement shall be in writing and shall be transmitted via FAX or major international overnight or two-day delivery service. Notice shall be deemed delivered one day after transmission of FAX or three days after consignment to delivery service, all fees prepaid, addressed to Distributor headquarters or EDT, as the case may be, at the address shown at the beginning of this Agreement or such other address as shall be designated by at least thirty (30) days written notice.
- **Insurance:** As consideration for the company's supplying product to the distributor, the distributor shall maintain commercial, general and automobile liability insurance each in an amount not less than one million (\$1,000,000.00) dollars per occurrence for bodily injury or property damage. Evidence of such coverage shall be provided using a Certificate of Insurance with twenty (20) days advance written notice of any cancellation or reduction of coverage and shall include Electronic Design Technology as an additional insured

- **Indemnification and Hold Harmless:** Distributor shall defend, indemnify, and hold harmless the company from all liability, claims, damages, losses, and expenses, whether direct, indirect or consequential (including but not limited to attorneys' and consultants fees and other expense of litigation or arbitration) brought by any employee of Distributor and shall not be limited in any way by any limitation on the amount or type of damages or compensation benefits payable by or for Distributor under applicable worker's or workmen's compensation, benefit, or disability laws (including but not limited to industrial insurance laws Title 51 of the Revised Code of Washington, or if the Distributor is outside the state of Washington, applicable industrial insurance laws). Distributor expressly waives any immunity Distributor might have under such laws and, by agreeing to enter into the Agreement, acknowledges that the foregoing waiver has been mutually negotiated by the parties.
- **Nonwaiver:** The failure by the Company at any one or more times to insist upon strict performance by the Distributor of the condition and/or terms of this Agreement shall not be construed as a waiver of the Company's right to demand strict compliance with and performance under all conditions and/or terms hereunder. Notice of said demand for strict compliance is hereby waived.

**PRODUCT LINE(S)** ( Please check which product line(s) you are applying for a distributorship )

i-LiNE Lighting Control

HMB Switches

Other\_\_\_\_\_



<b>COMPANY DETAILS</b>			
Company Name:			
Trading Name:			
Date of Establishment:			
Number of Locations:			
Years in Business:		months	years
Tax Number:		State	
Primary Physical Address:			
		Code:	
Mailing Address:			
		Code:	
Telephone Number:	( )		
Fax Number:	( )		
<b>CONTACT PERSON:</b>			
Title:			
Full Name:			
E-mail Address:			
Mobile Phone Number:			
<b>ALTERNATE CONTACT PERSON:</b>			
Name:			
Contact Number:			
E-mail Address:			
<b>DISTRIBUTOR WEB SITE ( Please pick a username and password for the distributor web site access )</b>			
User Name:		Password:	
<b>I hereby acknowledge that the information contained herein is correct.</b>			
Signature:			
Full Name:			
Date:			
<b>Please fax completed form to the Electronic Design Technology Distributor Administrator, fax number (903 ) 753-4811. All distributor application forms are subject to approval by Electronic Design Technology</b>			