

MICROLITE CORPORATION AUTHORIZED RESELLER AGREEMENT

This Reseller Agreement (the "Agreement") is made and entered into by and between **Microlite Corporation** ("MICROLITE"), a Pennsylvania corporation having a principal place of business at **2315 Mill Street, Aliquippa, Pennsylvania 15001-2228**, and

("Reseller Business Name"), having a place of business at

("Reseller's Business Address/City/State-Province/Zip-Postal-code").

In consideration of the mutual covenants contained in this Agreement, MICROLITE and Reseller agree as follows:

1. Definitions.

a. **Product.** All programs and files comprising the *Microlite BackupEDGE* backup and disaster recovery product suite.

b. **Products.**

i. Product as described in 1 (a).

ii. End User Licenses to license Product. These licenses are delivered in PDF format and require registration and activation by MICROLITE before use and are subject to an End User License Agreement as referenced on the MICROLITE web site (<http://www.microlite.com/eula>) and which may be changed from time to time.

iii. Support and Maintenance Subscriptions. These Subscriptions are delivered in PDF format as an updated activation key for the Product. They renew or extend the time an activated Product license (a) may receive technical support from MICROLITE, (b) is eligible for a no-charge same-platform or cross-platform upgrade and (c) is allowed access to the MICROLITE update servers for later product versions and patches.

iv. Product distributions and documentation are available individually or on a downloadable CD-ROM "ISO" image from the MICROLITE web site at <http://www.microlite.com>.

2. **Appointment as a Reseller.** MICROLITE hereby appoints Reseller as an "Authorized Microlite Corporation Reseller", at Reseller's Business Location to sell Product described in Section 1(b). As an authorized MICROLITE Corporation Reseller, Reseller shall have the non-exclusive and non-transferable right, for the term and subject to the conditions of this agreement, to purchase and sell Products **only to end users**. Reseller shall not resell or distribute to any other entities. Reseller shall not resell or distribute to any other entities NFR (Not for Resale) licenses purchased from or provided at no charge by Microlite for in-house developmental use. The Reseller shall use commercially reasonable efforts to sell and promote the sale of Products.

3. **Orders.** Reseller may order Products via telephone, fax or email. Terms are prepaid. Acceptable payment methods are Visa, MasterCard, Discover, American Express, ACH, Certified Check or Money Order payable in U S funds. International Resellers (including Canada) may make payment via Wire Transfer if the order is over \$1,000 US funds. Lesser amounts must be processed using Visa, MasterCard, Discover or American Express. Reseller will be responsible for bank charges incurred by Microlite to receive Wire Transfers.

Credit terms maybe issued to Reseller when a sales history has been established and a submitted Microlite credit application has been approved. Upon approval of credit terms, a written purchase order can be faxed or emailed. An order may also be placed via telephone. Unless an order confirmation is requested Microlite will fill the order at Reseller prices and terms then in effect and which may be modified from time to time.

4. **Delivery.** All orders accepted by MICROLITE, 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 MICROLITE. Orders for

Products supplied as PDF (End User Licenses and Support and Maintenance Subscriptions) are delivered to Reseller's designated recipient via electronic mail. Reseller shall examine the Product PDF upon receipt. Within ten (10) days of arrival, Reseller shall supply a MICROLITE Marketing Representative with a written list of all items not delivered pursuant to Reseller's order. Delivery shall be deemed to be complete, and the product accepted, pursuant to said order, if a Marketing Representative does not receive the written list within ten (10) days of delivery. The delivered Product shall be held at risk of Reseller 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 Reseller in addition to the current Reseller price.

5. **Technical Support.** If an End User is under a current *Support and Maintenance Subscription*, MICROLITE Corporation will provide telephone technical support without charge to End User's technical support personnel during regular working hours (8:30 am to 5:00 pm United States Eastern Standard Time). Reseller may contact MICROLITE on behalf of an End-User for support, provided End-User License has a current *Support and Maintenance Subscription*.
6. **Warranties and Disclaimers.** MICROLITE warrants that it has good title to the Product and that it has the right to grant to Reseller the right to sell the Product described in this agreement. MICROLITE warrants to and for the benefit of Reseller that the Products and the distribution and sale thereof do not infringe the trademarks, patents, copyrights or other proprietary rights of any third party.

MICROLITE SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, 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 SOFTWARE PRODUCTS.

7. **Limitation of Liability.** MICROLITE 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 MICROLITE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. IN NO EVENT WILL MICROLITE'S LIABILITY UNDER OR ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT RECEIVED BY MICROLITE FROM RESELLER 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.
8. **Warranties by Reseller to Customer.** Reseller agrees that any and all warranties made to customers of Reseller shall be made only by Reseller. Reseller acknowledges and agrees that Reseller will make no representation or warranties to its customers with respect to or on behalf of MICROLITE. Reseller hereby agrees to indemnify MICROLITE for any cost, loss, or liability arising out of Reseller's failure to comply with Reseller's obligations hereunder with respect to warranties.
9. **Ownership of Software.** Reseller acknowledges that, subject only to the licenses specifically granted herein, all right, title, and interest in the Product encoded on the Product provided to Reseller, and the media on which they are encoded, are the property of MICROLITE, 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 Product or the concepts embodied herein. RESELLER ACKNOWLEDGES THAT THE SOFTWARE IS COPYRIGHTED, AS NOTICED ON THE SOFTWARE, AND THAT RESELLER IS NOT AUTHORIZED TO REPRODUCE ANY COPIES OF THE PRODUCT, NOR AUTHORIZED TO LICENSE OTHERS TO REPRODUCE ANY COPIES OF THE PRODUCT.
10. **Exports.** MICROLITE Products contain encryption technology and are subject to export regulations under United States law. The Products are eligible for export and subject to License Exception ENC under Sections 740.17(a) and (b) (3) of the export administration regulations of the United States Department of Commerce, Bureau of Export Administration.

Reseller agrees to comply with all export laws, rules and regulations of the United States of America and foreign agencies or authorities, and not to export or re-export the Products in violation of any such laws, rules or regulations, or without all necessary authorizations. Reseller shall obtain and bear all expenses relating to any necessary licenses and/or exemptions with respect to its export of the Products from the Reseller's country. Neither the Products nor the underlying information or technology may be downloaded or otherwise exported or re-exported (i) to Cuba, Iran, North Korea, Sudan, Syria, or any other country subject to U.S. trade sanctions applicable to the Products, to individuals or entities controlled by such countries, or to nationals or residents of

such countries other than nationals who are lawfully admitted permanent residents of countries not subject to such sanctions; or (ii) to any named party or individual on the United States Department of Treasury, Office of Foreign Assets Control (OFAC) list of Specially Designated Nationals and Blocked Persons or on the United States Department of Commerce, Bureau of Export Administration Denied Persons List or Entity List.

11. **Indemnification.** Reseller agrees to indemnify MICROLITE against any claim, losses, liability or damage suffered or incurred by MICROLITE arising out of or relating to any violation by Reseller of any of the provisions or covenants contained in section 10; provided, however, that the foregoing indemnity shall not apply if Reseller reasonably relies on information supplied to it by MICROLITE with respect to export licenses. Reseller shall be given reasonable, prompt notice of such claim and full control and reasonable assistance, at Reseller's expense, in the defense thereof and all negotiations for its settlement or compromise. Both parties shall immediately notify the other party in writing of any governmental consent it receives for such export, upon receipt of any such governmental consent.
12. **Software Protection.** Reseller agrees that all Product delivered by MICROLITE contain secret and valuable products in which MICROLITE has a proprietary interest. Reseller represents that Reseller will not infringe on the rights of MICROLITE in the Product and that Reseller will make commercially reasonable efforts to protect the proprietary interest of MICROLITE in the Product. Reseller agrees not to alter or remove any copyright notices or other notices of proprietary interest in the Product, or other materials supplied by MICROLITE.
13. **Reseller as an Independent Contractor.** Reseller shall be deemed to be an independent contractor hereunder, and as such, Reseller shall not be nor hold itself out to be an employee or agent of MICROLITE. MICROLITE 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.
14. **Termination.** This Agreement shall be in effect for one (1) year, and will automatically renew for additional one year terms, provided that Reseller has purchased at least two (2) End User Licenses during the prior 12 months, one (1) of which has been purchased during the 6 months immediately preceding the anniversary date of the Agreement.

The Agreement may be terminated by either party by providing at least thirty (30) days written notice prior to the end of the existing term to the other party.

Any monies paid by Reseller to MICROLITE 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 Reseller or MICROLITE. On the termination of this agreement for any reason, MICROLITE shall have the option to repurchase its products in the possession of the Reseller and available for sale, at prices originally billed to the Reseller and with deductions for monies due or to become due to MICROLITE under this agreement.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. 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.
16. **Forum Selection; Consent to Jurisdiction.** The Pennsylvania state courts of Beaver County, Pennsylvania (or, if there is exclusive federal jurisdiction, the United States District Court for Western Pennsylvania) shall have exclusive jurisdiction and venue over any dispute arising out of this Agreement, and Reseller hereby consents to the jurisdiction of such courts.
17. **Assignment.** Neither party may assign this Agreement without the written consent of the other party. In the event of a merger, acquisition, or corporate reorganization, this Agreement is immediately void and must be re-executed between Microlite and the new entity.

RESELLER ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. Further, Reseller 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 in writing, which must be signed by both Reseller and MICROLITE.

MICROLITE CORPORATION

By: _____
Signature

Print Name

Title

Date

Your Reseller Number (assigned by Microlite)

RESELLER: _____

by: _____
Signature (Must be owner, partner or officer of company)

Print Name

Title

Date

Voice Phone Number

Fax Phone Number

State / Province Reseller Tax ID Number

Reseller Administrative Contact

Reseller Administrative Contact E-Mail

PDF Deliverables Email

Reseller Technical Contact

Reseller Technical Contact E-Mail