

RESELLER AGREEMENT

Reseller:	Tax ID No. (FEIN):	
Address:	Owner/Manager:	
	Telephone:	
	Facsimile:	
	E-Mail:	
Country:	Website URL:	

THIS RESELLER AGREEMENT is entered as of the Effective Date stated on the signature page by and between Electromotive, Inc. ("Electromotive"), a Virginia corporation with headquarters in Manassas, Virginia, and the Reseller named above.

1.	Appointment: Electromotive appoints Reseller, and Reseller accepts appointment, to act in accord ance with the terms of this Agreement in the capacity of [check one]:
	Value-Added Reseller ("VAR")Provisional Value-Added Reseller ("Provisional VAR")Authorized Installer/Tuner ("AIT")

Reseller shall have authority to perform in the capacity designated above with respect to all Electromotive products during the Term.

- **2. Term:** The Term of this Agreement shall begin on the Effective Date entered by Electromotive on the signature page and continue until terminated as provided in Section 8.
- **3. Electromotive Obligations:** Electromotive agrees to provide Reseller the following support and benefits during the Term:
 - a. <u>Customer Referrals</u>: Electromotive agrees to make reasonable efforts to refer potential customers who contact Electromotive by telephone, e-mail, or website to Reseller as appropriate based on Electromotive's understanding of the customer's location and needs, brand of engine, usage of engine, skill level, and other factors. Electromotive will attempt to allocate referrals evenly among appropriate resellers who are in close proximity to customer locations and may if requested refer a customer to more than one appropriate reseller, if available.
 - b. <u>Discounts</u>: Electromotive will provide Reseller the opportunity to purchase Electromotive products at the discounts stated in Exhibit 1 for the VAR level applicable to Reseller for the year or portion of year in question, as described more fully in Section 4.
 - c. <u>Marketing Support</u>: Electromotive will provide Reseller the marketing and technical support, if any, stated in Exhibit 2 for the VAR level applicable to Reseller for the year or portion of year in question.
 - d. <u>Merchandising</u>: Electromotive will provide Reseller the merchandising materials and credits, if any, stated in Exhibit 3 for the VAR level applicable to Reseller for the year or portion of year in

- question. Technical support will be provided at times designated by Electromotive, which are currently Electromotive's normal business hours.
- e. <u>Trademark License</u>: Electromotive grants Reseller a non-exclusive license to use the Electromotive business name, product names, product likenesses, logos, tag lines, and other trademarks and service marks (collectively, "Marks") during the Term in accordance with Electromotive usage guidelines for the sole purpose of carrying out Reseller's activities permitted under this Agreement. The Marks currently subject to this license are listed in Exhibit 4, and Electromotive's current Trademark Usage Guidelines are stated in Exhibit 5. Exhibit 4 and/or Exhibit 5 may be modified from time to time by Electromotive, effective upon posting on the Electromotive website or other notice to Reseller.
- 4. **Discount and Benefits Per Purchase Level:** If Reseller has selected and been approved for Standard VAR status, Reseller will qualify for the discounts and benefits stated in Exhibits 2, 3, and 4 for the level of purchases of Electromotive products by Reseller each year. The net purchase price paid to Electromotive for Electromotive products will be credited to Reseller's purchase requirement each year. Taxes, shipping, and other charges do not count toward the purchase requirement.
 - a. <u>Initial Qualification</u>: Reseller's purchases after the Effective Date are cumulative during the first year of the Term. On the first order that year which brings Reseller's cumulative purchases to a particular level (Standard, Gold, or Platinum), Reseller will receive the corresponding discount on the entire order and future orders during the year, as well as the corresponding benefits for the remainder of the year. The discount and benefits will not be retroactive to prior orders. If Reseller has made purchases of Electromotive products during the twelve months preceding the Effective Date, the total of those purchases will establish Reseller's initial VAR level for the first year of the Term.
 - b. <u>Carryover</u>: At the end of each year, the highest VAR level attained by Reseller during the year will carry over and apply to discounts on orders placed in the following year and benefits provided in the following year.
 - c. <u>Increases</u>: If in a particular year Reseller's purchases are sufficient to qualify Reseller for a higher VAR level than the current level, the discount corresponding to the higher level will apply immediately to the order which achieved the higher level and to all future orders in that same year, and the increased benefits will apply for the remainder of the year. More than one increase in level may occur in a single year if sufficient purchases are made.
 - d. <u>Decreases</u>: If Reseller's purchases in a particular year are insufficient to maintain Reseller's VAR level from the preceding year, Reseller's VAR level for the following year will be decreased to the level most recently achieved. If Reseller's purchases are not sufficient to maintain Standard VAR level, Reseller may be reduced to AIT status or lose its Reseller status altogether for the following year, as determined by Electromotive.
- 5. Provisional VARs: If Reseller has selected and been approved for Provisional VAR status, Reseller shall be entitled to purchase one trial Engine Control Unit ("ECU") at a 15% discount, and then a second ECU at a 50% discount if purchased as part of an order which brings Reseller's aggregate purchases of Electromotive products to at least \$5,000 within six months of the Effective Date. If Reseller purchases Electromotive products totaling \$10,000 within the first year, Reseller shall become a VAR for the following year at the level corresponding to its total purchases in the first year. However, if Reseller does not purchase Electromotive products totaling \$10,000 within the first year, this Agreement shall terminate as of the end of the first year, and Reseller shall have the option either to

- retain the first ECU without obligation or to return the first ECU to Electromotive in good working and physical condition for a refund of 80% of the net purchase price, not including shipping.
- **6. Reseller Obligations:** Except as authorized in writing by Electromotive in advance, Reseller agrees to perform the following obligations:
 - a. <u>Promotion</u>: Reseller agrees to promote the sale and use of Electromotive products on a commercially reasonable basis, to perform installation, repair, and other service to Electromotive products, and to otherwise represent Electromotive and its products, all in a professional, legal, and ethical manner.
 - b. <u>Response to Customer Requests</u>: Reseller agrees to respond promptly and effectively to questions and service requests from Electromotive customers and prospective customers.
 - c. <u>Minimum Advertised Pricing:</u> Reseller agrees not to advertise any Electromotive product below Racer Net, which is the minimum permitted advertised sale price for the product as designated by Electromotive. This prohibition also includes advertising lower prices in an implied manner, such as by Internet auction or using "Or Best Offer" inducements. Except in specific jurisdictions which outlaw minimum resale price maintenance, Reseller may not offer or sell any Electromotive product at a price which is lower than Racer Net.
 - d. <u>Reputation Protection</u>: Reseller agrees to refrain disparaging Electromotive or Electromotive products or personnel, and to refrain from any other conduct that is or is reasonably likely to be detrimental to the reputation of Electromotive or Electromotive products or personnel, during the Term and for one year after termination of this Agreement for any reason.
 - e. <u>Trademark Usage Guidelines</u>: Reseller agrees to familiarize itself with and follow Electromotive's Trademark Usage Guidelines in connection with Reseller's use of the Marks and any other Electromotive intellectual property. If questions arise as to compliance with the Guidelines, Reseller shall request advice from, and/or provide draft copies of proposed materials for approval by, Electromotive's Marketing Department before distribution. Electromotive retains the right to monitor the use of the Marks and its other brand elements by Reseller and to require Reseller to make reasonable changes, at Reseller's expense, to achieve compliance with the Guidelines.
 - f. No Challenges to Trademark, Etc. Rights: Reseller agrees not to contest or challenge the rights claimed by Electromotive or its affiliates in the Marks or any other Electromotive intellectual property, nor to assist any other party in doing so.
 - g. <u>Compliance with Requests</u>: Reseller agrees to comply promptly with all reasonable requests made by Electromotive relating to product recalls, modifications, notices to customers, and/or other matters relating to Electromotive or its products.
 - h. <u>Compliance with Policies</u>: Reseller agrees to comply with all Electromotive policies that have been made available to Reseller, either by posting on the Electromotive website or by other means.
 - i. <u>Compliance with Law</u>: Reseller agrees to comply with all applicable laws and regulations in its activities under this Agreement.

7. Liability Limitations:

a. <u>Exclusion of Certain Damages</u>: In no event shall Electromotive be liable to Reseller for consequential, special, indirect, incidental, punitive, or exemplary damages, including but not limited to lost revenues or profits, damage to or destruction of equipment or other property, lost

- staff or management time, or the cost of substitute products, for breach of this Agreement or any claim arising in connection with Reseller's activities under or the relationship created by this Agreement, regardless of the legal theories asserted.
- b. <u>Limit of Liability</u>: In no event shall Electromotive's total liability to Reseller for all breaches of this Agreement and/or claims arising in connection with Reseller's activities under or the relationship created by this Agreement, in the aggregate, exceed the lesser of \$5,000 or 20% of the amount paid by Reseller to purchase Electromotive products within the twelve months preceding first assertion of the claim by Reseller, regardless of the legal theories asserted.
- 8. Termination: Either party may terminate this Agreement at any time: (a) without cause, effective upon 45 days written notice; or (b) immediately upon written notice if the other Party has failed to cure a material breach of this Agreement within 15 days after written notice thereof. Upon termination of this Agreement, the trademark license granted in clause 3.e shall immediately terminate, and Reseller shall immediately cease all of use of materials and all other actions which would create the impression that Reseller is an authorized Reseller of Electromotive products, is a representative of Electromotive or its products, or has any affiliation with Electromotive or its products. Notwithstanding the foregoing, Reseller may continue to offer its remaining inventory of Electromotive products for sale for three months after termination.

9. Miscellaneous:

- a. <u>No Assignment</u>: This Agreement is entered by Electromotive in order to obtain the personal services of Reseller after evaluation of Reseller's application and background. This Agreement and Reseller's duties, obligations, rights, and benefits under it may not be assigned, delegated, subcontracted, or otherwise transferred by Reseller without express written consent from Electromotive. Any assignment, delegation, subcontracting, or transfer by Reseller without such consent shall be void.
- b. <u>Independence of Parties</u>: The relationship between Electromotive and Reseller shall be that of independent contractors. Nothing in this Agreement shall constitute or be deemed to create a partnership, joint venture, or franchise between Electromotive and Reseller, nor to cause Reseller to be deemed an agent of Electromotive for any purpose. Reseller shall have no authority or power to bind Electromotive to contracts or other legal obligations.
- c. <u>Force Majeure</u>: Except for obligations for the payment of money, neither party shall be liable to the other party for any failure to perform or delay in performing any obligations under this Agreement due to causes beyond its reasonable control.
- d. <u>Certain Modifications</u>: Electromotive may, at any time and without prior notice, modify any or all of the Exhibits to this Agreement and/or any Electromotive product offerings, pricing, policies, or procedures, effective upon posting on the Electromotive website or other notice to Reseller (or effective upon any later date designated in such notice as the effective date).
- e. <u>Governing Law and Forum</u>: This Agreement shall be governed by and interpreted under the laws of Virginia without giving effect to the choice of law provisions. All disputes arising under or relating to this Agreement shall be resolved in the state or federal court serving Manassas, Virginia, or such other location to which Electromotive may move its corporate headquarters.
- f. <u>Entire Agreement</u>: This document, including all referenced Exhibits, states the complete, final, and exclusive agreement of the parties concerning its subject and supersedes all earlier oral or

written agreements, representations, promises, negotiations, and other communications between the parties. The terms of this Agreement may only be amended, supplemented, or waived by a later writing signed by the parties.

Certification

The undersigned representative of Reseller certifies and represents to Electromotive that:

- a. all information provided by Reseller in its submitted VAR/AIT (Reseller) Application attached as Exhibit 6 is correct and fully and accurately represents the status of Reseller; and
- b. the undersigned individual has been duly authorized to enter into this Agreement on behalf of Reseller.

Intending to be legally bound, the parties have signed this Reseller Agreement on the dates stated below.

RESELLER	ELECTROMOTIVE, INC.
Signature:	Signature:
Printed Name:	Printed Name:
Title:	Title:
Date Signed:	Date Signed:
	Effective Date:

EXHIBIT 1

PURCHASE REQUIREMENTS AND DISCOUNTS FOR VARIOUS VAR STATUSES AND LEVELS

<u>ITEM</u>	AIT	PROVISIONAL	STANDARD	GOLD VAR	PLATINUM VAR
		<u>VAR</u>	<u>VAR</u>		
Minimum Annual	None	\$5,000 within six	\$10,000	\$25,000	\$50,000
Purchase Require-		months of Effec-			
ment to Attain or		tive Date of			
Maintain Status		Agreement and			
		\$10,000 in the			
		first 12 months.			
ECU & Ignition Dis-	10% off	15% off Racer	20% off Racer	25% off Racer Net	30% off Racer Net
counts	Racer Net ¹	Net price for first	Net		
		unit. 50% off for			
		second unit ²			
Discount on Other	10% off	15% off Racer	20% off Racer	25% off Racer Net	30% off Racer Net
Products	Racer Net	Net	Net		
Special Order Dis-	None	None	5%	5%	10%
counts					
Shipping Benefits	None	None	None	Expedited at no	Expedited at no extra
				extra cost	cost

- ¹ Racer Net is the minimum permitted advertised retail price for each Electromotive product as designated by Electromotive.
- ² Second unit will be 50% off if and only if purchased as part of an order that brings the total purchase level to at least \$5,000 within six months of the Effective Date.



EXHIBIT 2 MARKETING SUPPORT PROVIDED TO RESELLERS

	<u>AIT</u>	PROVISIONAL	<u>VAR</u>	GOLD VAR	<u>PLATINUM</u>
		<u>VAR</u>			<u>VAR</u>
Store Merchandising (See following page for more detail)*	Yes	No	Yes	Yes	Yes
Customer Referrals from Electromotive	Yes, within 100 miles.	NA	For purchase (within 100 miles)	For purchase (within 100 miles)	For purchase (within 100 miles)
Website	Listing in AIT locator	NA	Listing in VAR locator and reciprocal linked logos	Listing in VAR locator and reciprocal logos	Listing in VAR locator and reciprocal logos
Inclusion in Electromo- tive Brand Advertising	NA	NA	NA	Yes	Yes
Co-op Advertising Program Access	NA	NA	NA	Yes	Yes
Co-Marketing Opportunities	NA	NA	NA	Yes	Yes
Co-branded Product Labeling Available	NA	NA	NA	NA	Yes
Membership in Elec- tromotive VAR Council	NA	NA	NA	Yes	Yes
Technical Support					
Technician Training	NA	NA	NA	8 Hours	8 Hours
Tech Support (for VAR personnel)	4 hours free then hourly fee	4 hours free then hourly fee	15 hours free then hourly fee	25 hours free then hourly fee	50 hours free
Engineering Consulting	NA	NA	5% fee dis- count	5% fee dis- count	10% fee dis- count
Repair Priority	Standard	Standard	Standard	Expedited	Expedited



EXHIBIT 3

MERCHANDISING AND TECHNICAL SUPPORT PROVIDED TO RESELLERS

<u>AIT</u>	PROVISIONAL VAR	<u>VAR</u>	GOLD VAR	PLATINUM VAR
2 EMI AIT door de-	10 Product Stickers	4 EMI VAR Door	4 EMI VAR Door	4 EMI VAR Door
cals		Decals	Decals	Decals
10 Product Stickers		20 EMI Decals	20 EMI Decals	20 EMI Decals
1 Medium AIT Vinyl		2 Medium	2 Medium and 1	2 Medium and 1
Shop Sign		EMI/VAR Vinyl	Large EMI Vinyl	Large EMI Vinyl
		Shop Signs	Banners	Banners
2 EMI hats	1 EMI Hat	4 EMI Hats	8 EMI Hats	12 EMI Hats
2 EMI T-Shirts	1 EMI T-shirt	4 EMI T-Shirts	8 EMI T-Shirts	12 EMI T-Shirts
20 Product Bro-	20 Product Bro-	50 Product Bro-	50 Product Bro-	50 Product Bro-
chures	chures	chures	chures	chures
Template Press Re-		Template Press	Template Press	Template Press
lease		Release	Release	Release
\$50 annual Reseller		\$200 annual Re-	\$500 annual Re-	\$1000 annual
logo merchandise		seller logo mer-	seller logo mer-	Reseller logo
credit. Can only be		chandise credit.	chandise credit.	merchandise
used to purchase		Can only be used	Can only be	credit. Can only
EMI Reseller mer-		to purchase EMI	used to pur-	be used to pur-
chandising items		Reseller merchan-	chase EMI Re-	chase EMI Re-
from EMI		dising from EMI	seller merchan-	seller merchan-
			dising from EMI	dising from EMI



EXHIBIT 4 ELECTROMOTIVE MARKS

	ELECTROMOTIVE	ELECTROMOTIVE ENGINE CONTROLS	Serious Engine Controls
TEC			
TEC ^{Evo}	TEC ^S	TEC 3r	TEC gt
TECEVO ENGINE MANAGEMENT SYSTEM	ENGINE MANAGEMENT SYSTEM	ENGINE MANAGEMENT SYSTEM	TEC9t ENGINE MANAGEMENT SYSTEM
XDi	DIRECT IGNITION SYSTEM	XDi2	XDi2



EXHIBIT 5

TRADEMARK USAGE GUIDELINES FOR RESELLERS

Electromotive, Inc.'s trademarks, service marks, and other branding are valuable corporate assets that play an important role in promoting Electromotive and its products and services - and, as a result, contribute to your success as a Reseller. These Trademark Usage Guidelines ("Guidelines") describe how to properly acknowledge and preserve the trademark rights of Electromotive. These Guidelines are binding on all Electromotive resellers, whether VARs or AITs.

These Guidelines apply to all trademarks, services marks, product names, logos, trade names, tag lines, and other branding which Electromotive uses. For simplicity, all these types of branding are referred as the "Marks" in these Guidelines. The Marks currently used by Electromotive are listed on Exhibit 4 to your Reseller Agreement. From time to time, Electromotive may adopt additional Marks or cease using certain Marks, and the status of certain Marks may change from unregistered to registered. Please review the Electromotive website on a regular basis for the current status of the Marks.

If you have any questions concerning the information in these Guidelines or any particular usage you plan to make of any of the Marks, please contact the Electromotive Marketing Department at (703) 331-0100 before displaying the Mark(s) in question or taking other action that might affect them.

Approved Use

You may use the Marks <u>solely</u> to refer to Electromotive and its products and services <u>in connection with your efforts to sell Electromotive products</u>, so long as the Marks are used properly in accordance with these Guidelines. Use of the Marks not in accordance with these Guidelines or of trademarks that are confusingly similar to any of the Marks may constitute an infringement of Electromotive's rights and breach of your Reseller Agreement.

You may also refer to your company publicly as an "authorized reseller of Electromotive products."

Proper Attribution to Electromotive

All of the Marks must be properly attributed to Electromotive. Trademark ownership is attributed in two ways, with the use of a trademark symbol (*i.e.*, TM , SM , or $^{\circledR}$) after the trademark, and with a trademark legend, usually placed at the end of a document directly after the copyright notice.

Similarly, you must avoid any use of the Marks which suggests they may belong to your company or a third party.

- Do not incorporate the Marks into, or use the Marks as part of, your own product or company trademarks or names. Your own distinctive trademarks must be used to identify your company, products, and services.
- Do not use the Marks in a manner which is likely to cause confusion as to the source of goods or services or which may indicate a sponsorship, affiliation, or endorsement which does not exist.

 Do not use the Marks to identify products or services that are not manufactured or distributed by Electromotive.

Trademark Symbols

The appropriate trademark symbol must be used when making reference to any of the Marks. The appropriate symbol for each of the Marks is indicated on Exhibit 4 to your Reseller Agreement. If a product or trademark is not listed, please contact the Electromotive Marketing Department at (703) 331-0100.

The standard trademark symbols have the following meanings:

- indicates a trademark registered in the United States.
- TM indicates a trademark that is currently unregistered in the United States.
- Indicates a service mark that is currently unregistered in the United States.

Wherever possible, the symbol should be placed directly after the trademark, in a superscript and in a size smaller than the mark itself. If you are unable to use the symbols due to the software you are using, please use parenthetical versions as follows: (R), (tm), or (sm).

The trademark symbol does not need to be included in every use of a Mark, but it must always be used:

- With the first use of a Mark in the text of each document.
- With all prominent uses of a Mark (e.g., title pages, headings, etc.).

Trademark Legends

The Marks must be properly identified as originating from Electromotive by including a brief legend attributing ownership to Electromotive. The following legend should be used on all materials that reference any of the Marks:

Electromotive, [list the Marks referenced in the materials], are trademarks or registered trademarks of Electromotive, Inc.

In addition:

- The trademark legend must be clear in order to avoid any confusion as to who is the owner of each Mark. Do not use the brand name "Electromotive" in the legend; use the corporate name "Electromotive, Inc."
- The Marks should be specifically credited, not referred to generically as "...all other trademarks are owned by their respective companies" or using similar language.
- Do not include any other statements in the legend that in any way suggest that you have or are claiming any rights in a Mark.
- Do not reference an Electromotive Mark and your or another company's trademark in the same trademark legend.

The legend is usually placed at the end or bottom of marketing materials. The legend may be in a smaller font than the text of the document, but it must be legible. Generally, 6 point font is the minimum acceptable size.

Proper Usage of the Marks

The Marks are adjectives (brand indicators) which modify nouns (generic product names). Please adhere to the following practices when using the Marks:

- The first or most prominent use of any Mark in text must be as an adjective, followed by the generic term for the applicable product. For example, "TEC3r™ engine control units" or "XDi2™ ignition systems."
- Keep the Marks distinct from surrounding text and use consistent Electromotive lettering, font, and design format.
- Do not make the Marks possessive through the use of apostrophes.
- Do not pluralize the Marks.
- Do not abbreviate or combine the Marks with other words or components.
- Avoid confusion by clearly separating and identifying the Marks from other companies' names and trademarks.



EXHIBIT 6 VAR/ AIT (RESELLER) APPLICATION

VALUE-ADDED RESELLER & AUTHORIZED INSTALLER/TUNER APPLICATION

Complete this application with as much detail as possible and submit to Electromotive using your choice of methods. We will review your application quickly and get back to you with any questions.

MAIL: Electromotive, Inc. ATTN: Reseller Relations 9131 Centreville Rd. Manassas, VA 20110	FAX: 703.331.0161	EMAIL: support@electromotive-inc.com
I AM APPLYING TO BE:		
A Valued-Added Reseller		
A Provisional Value-Added R	eseller	
An Authorized Tuner/Installer	r	
CONTACT INFORMATION		
Name:		
Federal Tax ID # (US only) _		
Business/Shipping Address (No Post Office Boxes):	
Street:		
City:		
State/Province:		
Country:	Postal Code:	
Primary Business Telephone	#	
Business Fax #		
Business Website Address: _		
Contact Name:		
Contact Title:		
Contact Telephone:	Contact Email:	

ABOUT YOUR BUSINESS:

General Information: How many years have you been in business? ____ How many full-time employees (working on engines)? _____ Square footage of your facility (devoted to performance & racing activities)? Do you have a dyno on premises? Yes _____ No ____ **Business Structure:** What is your primary business structure? Retailer _____ Jobber Wholesale Distributor _____ Internet Retailer _____ Race Shop _____ Engine Builder _____ Performance Component Installation/Tuning _____ Other (explain): Percentage Split of Sales (if applicable): Retail _____% Wholesale _____% Primary Customer Segments Served (Rank your top 3 segments): Racing ____ o Drag __ Track/Dirt Domestic V-8 _____ Asian Import ____ European Import _____ Truck/SUV _____ • 4 x 4 _____ Street Performance/Show Marine____ Other _____ **Brand Familiarity:** What brands of aftermarket ECUs and ignitions do you work with the most (Pick the top 3)? Electromotive MSD _____ Mallory _____ Holley _____ HalTech _____ MoTec ____ Accel____ Fast _____ Big Stuff _____ AEM _____ Other

 Electromotive MSD Mallory Holley HalTech MoTech Accel Fast Big Stuff AEM Other
For which of the brands above are you an authorized reseller/installer?
Roughly how many ECUs (of any brand) do you sell each year?
Roughly how many ECUs do you install and tune each year?
Which statements (choose up to two) best describes your customers?
 Ask your advice on which ECUs before buying? Bring you an ECU they have already purchased? Buy an ECU from you and have it installed elsewhere? Buy and ECU from you and have you install it? Buy a complete motor from you with ECU chosen and installed by you? Other (explain)?
Printed Name of Applicant
Signature of Applicant
Title of Applicant:
Date:

What brands of aftermarket ECUs and ignitions do you sell currently?