



ONE TIME RESELLER AGREEMENT

This One Time Reseller Agreement, including the Order Form which by this reference is incorporated herein (this "**Agreement**"), is a binding agreement between CloudBolt Software, Inc., a Delaware corporation with offices at 6130 Executive Blvd, Suite 310, Rockville, MD 20852 ("**SELLER**") and the entity identified on the Order Form as the partner who is reselling the licenses to the Licensed Products ("**RESELLER**").

SELLER GRANTS RESELLER THE RIGHT TO RESELL THE LICENSED PRODUCTS TO A SPECIFIC CUSTOMER DESCRIBED ON THE ORDER FORM, SOLELY IN ACCORDANCE WITH THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT RESELLER ACCEPTS AND COMPLIES WITH THEM. BY (i) SIGNING THE ORDER FORM, OR (ii) SUBMITTING A PURCHASE ORDER OR OTHER ORDERING DOCUMENT ("PO") TO SELLER WHICH REFERENCES THE ORDER FORM, YOU (A) ACCEPT THIS AGREEMENT AND AGREE THAT RESELLER IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENTS AND WARRANTS THAT YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF RESELLER AND BIND RESELLER TO ITS TERMS. IF RESELLER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, RESELLER WILL NOT AND DOES NOT HAVE THE RIGHT TO RESELL THE LICENSED PRODUCTS.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR RESELLER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION, OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT, CONCERNING ANY LICENSED PRODUCTS THAT RESELLER DID NOT ACQUIRE LAWFULLY OR THAT IS NOT A LEGITIMATE, AUTHORIZED COPY OF LICENSOR'S LICENSED PRODUCTS.

WHEREAS, SELLER markets and licenses software solutions and maintenance and support plans, including documentation for such solutions (hereafter collectively referred to as the "Licensed Products"); and

WHEREAS, RESELLER wishes to resell the specific Licensed Products listed on an Order Form ("Specific Licensed Products") to the customer listed on the Order Form ("Customer"),

THEREFORE, in consideration of the premises and respective covenants, warranties and undertakings contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SELLER and RESELLER hereby agree as follows:

1. APPOINTMENT.

SELLER hereby appoints RESELLER, and RESELLER hereby accepts, a non-exclusive, non-transferable and non-sublicensable appointment to resell the Specific Licensed Products to Customer. Notwithstanding the foregoing, nothing in this Agreement shall be construed as limiting SELLER's marketing or distribution activities or its appointment of other resellers, licensees or agents of any kind. SELLER and RESELLER desire that RESELLER cooperate in reselling the Specific Licensed Products set forth on the Order Form to Customer.

2. RESELLER RESPONSIBILITIES.

- a. RESELLER agrees to reproduce and include the copyright notice and any other notices that appear on or accompany the Specific Licensed Products or documentation and on any copies made by RESELLER on any media.
- b. RESELLER agrees at its own expense to resell the Specific Licensed Products to Customer. RESELLER shall not resell any Licensed Products to any other prospects or customers.
- c. RESELLER agrees that it shall be responsible for only its own products and related services. RESELLER shall have sole and complete control over the charges, terms and conditions for such products and services. RESELLER shall not make any representations in regard to the Licensed Products and related services and shall have no power whatsoever to bind SELLER as to any arrangements with customers.

3. RESELLER RIGHTS. SELLER hereby grants to RESELLER a non-exclusive, non-transferable right to:

- a. Resell the Specific Licensed Products to Customer and assist SELLER in entering into an end-user license agreement directly with Customer; and
- b. RESELLER's rights are limited to those expressly granted by this Agreement. SELLER and its licensors reserve all other rights. SELLER, or its licensors, own all intellectual property rights including patent, copyright, trade secret, trademark and other proprietary rights in and to the Licensed Products and documentation. RESELLER may not: (i) modify, adapt, decompile, disassemble, or reverse engineer the Licensed Products or documentation unless specifically authorized by applicable law; (ii) create derivative works based on the Licensed Products or documentation; (iii) make unauthorized copies of the Licensed Products or documentation; (iv) allow any further disclosure, distribution or relocation, resale, lease, loan, rental, license, or assignment of any type or nature or unauthorized third party use or access to the SELLER provided documentation without the prior written consent of SELLER; (v) use the Licensed Products or documentation; (vi) or use SELLER'S tradenames or trademarks as part of RESELLER's corporate or business name or in any manner which SELLER, in its sole discretion, may find misleading or objectionable. For the avoidance of doubt, the Licensed Products (software, firmware and/or documentation) are licensed and not sold, and all RESELLER'S rights shall immediately and automatically terminate in the event this Agreement is terminated, and all rights to resell the Licensed Products shall terminate.

4. ORDERS.

SELLER shall issue a(n) quote/order form ("Order Form") to RESELLER describing the details of the order for the Specific Licensed Products. RESELLER's acceptance of the terms of such Order Form shall be evidenced by RESELLER (i) signing the Order Form, or (ii) providing SELLER with a PO which references the applicable Order Form. RESELLER expressly agrees that SELLER shall not be bound by any additional or different terms that may appear in RESELLER's PO or in any other RESELLER communication. RESELLER shall ensure that all terms and conditions on the Order Form regarding the licensing of the Specific Licensed Products shall be presented to, and agreed upon by, the Customer.

5. PRICING AND PAYMENT TERMS.

- a. RESELLER will pay SELLER in full the fees as expressed in the Order Form for the licensing of the Specific Licensed Products to Customer within thirty (30) days from the date of the applicable invoice. RESELLER shall not be entitled to any compensation for any other SELLER products or services (not agreed upon with the execution of this Agreement), including without limitation: professional services, the sale of any hardware or virtual appliances, 3rd party products, training, renewals/ maintenance & support or consumable supplies and lease buyouts.
- b. All prices are exclusive of taxes. SELLER shall pay all import duties, levies or other imposts, and RESELLER shall pay all sales, use, value added, property or other taxes of any nature assessed upon or with respect to this transaction unless RESELLER provides SELLER with a proper tax-exemption certificate.

6. SELLER RESPONSIBILITIES.

SELLER agrees that it shall be responsible for only the Specific Licensed Products. SELLER shall not make any representations in regard to RESELLER products and services and shall have no power whatsoever to bind RESELLER as to any arrangements with customers.

7. WARRANTY.

All warranties for the Specific Licensed Products shall be directly between SELLER and Customer. Any such warranties shall be exclusive and in lieu of, and SELLER hereby disclaims any other warranties on the Specific Licensed Products, express or implied, or statutory, including without limitation any warranty of merchantability, fitness for a particular purpose. RESELLER shall not extend any warranties for the Specific Licensed Product to the Customer.

8. DISCLAIMER AND LIMITATION OF LIABILITY.

EXCEPT FOR SELLER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 9, DAMAGES CAUSED BY EITHER PARTY'S BREACH OF SECTION 10 (CONFIDENTIAL INFORMATION), DAMAGES CAUSED BY RESELLER'S MISAPPROPRIATION OF SELLER'S INTELLECTUAL PROPERTY, OR FOR DAMAGES CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE LICENSED PRODUCTS, THIS AGREEMENT, OR SELLER'S PERFORMANCE OR ASSERTED FAILURE TO PERFORM HEREUNDER EXCEED THE PURCHASE PRICE OF THE APPLICABLE LICENSED PRODUCTS THAT GAVE RISE TO THE CLAIM REGARDLESS OF WHETHER SUCH CLAIM FOR LIABILITY IS ALLEGED TO ARISE IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE.

EXCEPT FOR DAMAGES CAUSED BY EITHER PARTY'S BREACH OF SECTION 10 (CONFIDENTIAL INFORMATION), DAMAGES CAUSED BY RESELLER'S MISAPPROPRIATION OF SELLER'S INTELLECTUAL PROPERTY, OR FOR DAMAGES CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS, OR LOSS OF BUSINESS ARISING OUT OF, OR IN CONNECTION WITH, THE LICENSED PRODUCTS OR PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT REGARDLESS OF WHETHER THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. INDEMNIFICATION.

SELLER shall defend and indemnify or settle (provided no settlement shall be entered into which attributes any fault on RESELLER without RESELLER'S prior written consent) any claim, suit, or action ("Claim") against RESELLER based on an allegation that the Specific Licensed Products infringe any third party's US or European patent, copyright or any other intellectual property right; provided, that RESELLER gives SELLER prompt written notice of any such Claim, sole authority, subject to obtaining RESELLER'S prior written consent as noted above, to defend or settle as it sees fit, and cooperation. The foregoing indemnity does not apply to any infringement claim arising if the Specific Licensed Product: (i) has been modified by RESELLER; or (ii) has been used in conjunction with other software and/or hardware which gives rise to an infringement claim if the use of the Specific Licensed Product alone would not give rise to such infringing situation.

10. CONFIDENTIAL INFORMATION.

- a. Confidential Information. Each party will regard any information provided to it by the other party and designated in writing as proprietary or confidential to be confidential ("Confidential Information"). Confidential Information shall also include information which, to a reasonable person familiar with the disclosing party's business and the industry in which it operates, is of a confidential or proprietary nature. The receiving party shall hold in confidence, and shall not disclose (or permit or suffer its personnel to disclose) any Confidential Information to any person or entity except to a director, officer, employee, outside consultant, or advisor of the receiving party or its affiliates (collectively "Representatives") who have a need to know such Confidential Information in the course of the performance of their duties for the receiving party and who are bound by a duty of confidentiality no less protective of the disclosing party's Confidential Information than this Agreement. The receiving party and its Representatives shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the disclosing party. Each party accepts responsibility for the actions of its Representatives and shall protect the other party's Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used. The parties expressly agree that Licensed Products are CloudBolt's Confidential Information. A receiving party shall promptly notify the disclosing party upon becoming aware of a breach or threatened breach hereunder and shall cooperate with any reasonable request of the disclosing party in enforcing its rights. Upon request, a party shall promptly return or destroy all Confidential Information of the other party in its possession.
- b. Exclusions. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the disclosing party, without any obligation of confidentiality; (ii) becomes known to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) is

independently developed by the receiving party without use of the disclosing party's Confidential Information. The receiving party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, provided that, to the extent legally permissible, it gives the disclosing party reasonable prior written notice to permit the disclosing party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

- c. **Injunctive Relief.** Notwithstanding any other provision of this Agreement, both parties acknowledge that any use of the disclosing party's Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the disclosing party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both parties agree that, in addition to any other remedy to which the disclosing party may be entitled hereunder, at law or equity, the disclosing party shall be entitled to seek injunctive relief to restrain such use in addition to other appropriate remedies available under applicable law.

11. TERM/TERMINATION.

The Term of this Agreement shall be limited to the initial purchase and term set forth on the Order Form. Either party may terminate this Agreement with or without cause by providing the other party with thirty (30) days' written notice to the other party. Upon termination of this Agreement for any reason, valid licenses granted to Customer to use the Specific Licensed Products shall survive according to the terms of the end user license agreement between SELLER and Customer.

12. GOVERNING LAW.

The sole jurisdiction and venue for any court claims will be the state and federal courts located in New York, and both parties consent to the jurisdiction of such courts. This Agreement will be governed by and construed in accordance with the laws of the State of New York without regard to the conflicts of law provisions thereof or the UN Convention on the International Sale of Goods.

13. WAIVER.

The waiver by either party of a breach of any provision by the other party shall not be construed as a waiver of any succeeding breach of the same or another provision, nor shall any delay or omission on the part of either party to exercise any right that it has, operate a waiver of any right by that party.

14. COMPLETE AGREEMENT.

This Agreement is the complete agreement between the parties regarding the Licensed Products and supersede any prior or contemporaneous agreements or communications, written or oral, relating to the subject matter hereof. This Agreement will not be modified except by a properly executed written agreement. Any terms and conditions of any PO or other instrument issued by SELLER in connection with this Agreement that are in addition to, inconsistent with or different from the terms and conditions of this Agreement will be of no force or effect.

15. INDEPENDENT CONTRACTORS.

Nothing herein will be construed to place the parties in the relationship of partners, joint ventures, principal and agent, or employer and employee, and neither party will have the power to obligate or bind the other party in any manner whatsoever. Each party will be responsible for the acts, negligence and omissions of its employees, agents, servants and subcontractors, as applicable to their performance hereunder.

16. FORCE MAJEURE.

Except for the obligation to make payments, nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, pandemics, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

17. NO COMMITMENT.

SELLER understands and agrees that RESELLER offers no commitments or guarantee of any minimum volume of purchases or of revenues under this Agreement. The relationship between SELLER and RESELLER is not exclusive.

18. NON-SOLICITATION.

During the term of this Agreement and continuing through the first anniversary of the termination of this Agreement, neither party (or its affiliates, subsidiaries, partners, third parties) will actively solicit to employ or employ any employee of the other party, its affiliates or business partners, without the written consent of the employing party. However, “actively solicit to employ or employ” will not be deemed to include general recruitment through advertising or postings addressed to the general public.

19. SEVERABILITY.

In the event that any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

20. NOTICES.

All notices under this Agreement will be deemed given (i) when personally delivered, (ii) when sent by confirmed fax or email with delivery receipt, or (iii) one (1) day after being sent by overnight courier, three (3) days after being sent by U.S. or express mail, to the address of the party to be noticed as set forth on the Order Form or such other address as such party last provided the other by written notice.