

SINGLE TRANSACTION RESELLER AGREEMENT

This **Single Transaction Reseller Agreement**, together with all attachments, addenda, exhibits, statements of work and documents at referenced URLs, (collectively, the “**Agreement**”) is entered into by and between the Solo entity (“**Solo**”), and the entity identified as “Reseller” (“**Reseller**”), each as set forth on the signature block of the Order Form, as of the date specified on such Order Form (“**Effective Date**”). This agreement permits Reseller to resell certain Solo Offerings (as defined below) in a specified territory subject to the following terms and conditions.

1. DEFINITIONS

1.1 “**Affiliate**” means, with a respect to a party, any entity that controls, is controlled by, or which is under common control with such party, where “control” means ownership of fifty percent (50%) or more of the outstanding shares or securities representing the right to vote in the election of directors or other management of operations of such party.

1.2 “**Agreement Term**” means the term of this Agreement, including the initial term and subsequent renewal terms.

1.3 “**Order Form**” means an ordering document entered into between Solo (or its Affiliates) and Reseller (or its Affiliates) to resell Solo Offerings to the Subscriber listed on such Order Form, where the parties agree that where either party or one of their Affiliates enters an Order Form with an Affiliate of the other party, such Affiliate shall be solely responsible for performing all of its obligations under the Agreement in connection with such Order Form.

1.4 “**Reseller Program Guide**” means the documentation that contains specific details, requirements and discounts for participation as a reseller of Solo, which may be modified by Solo from time to time, in its reasonable discretion.

1.5 “**Solo Offerings**” means the products and/or services listed in the Reseller Program Guide.

1.6 “**Subscriber**” means an end user customer identified as the Ship-To entity in an Order Form.

1.7 “**Subscriber Agreement**” means the Subscriber terms set forth at <https://legal.solo.io/#subscription-terms>.

1.8 “**Support Services**” means the maintenance and support services purchased, if any, in a Subscription, as specified in an applicable Order Form, and more fully described at <https://legal.solo.io/#technical-support-policy> (the “**Technical Support Policy**”).

1.9 “**Territory**” means the world, except with respect to countries, territories or jurisdictions where the marketing, sale or distribution of the Software and/or Documentation and/or Support Services is prohibited by the applicable laws or regulations of the United States (including applicable export laws).

2. RESELLER OBLIGATIONS.

2.1 Appointment. Subject to the terms and conditions of this Agreement, including the Reseller Program Guide, Solo appoints Reseller as an authorized, non-exclusive, reseller of Solo Offerings to distribute to Subscribers during the Agreement Term, and grants Reseller the non-transferable, non-sublicensable, revocable right to market and resell Solo Offerings directly to Subscribers and potential Subscribers in the Territory, but solely (i) for use by such Subscribers only and without any right of further resale and (ii) pursuant to the applicable Subscriber Agreement(s). Reseller shall not market or resell Solo Offerings outside the Territory, or to a party that Reseller knows or has reason to know will use the Solo Offerings outside the Territory.

2.2 Second Tier Reselling. If permitted on an Order Form, Solo agrees that Reseller may resell Solo Offerings to a third party reseller approved by Solo and identified in an applicable Order Form (“**Second Tier Reseller**”) provided that: (i) Reseller must cause the Second Tier Reseller to enter into a written executed agreement with the Reseller (“**Second Tier Reseller Agreement**”), binding such Second Tier Reseller to terms and conditions substantially similar to, and no less protective of Solo’s interests than, those in this Agreement, (ii) the Second Tier Reseller must obtain consent from the Subscriber in a legally enforceable manner to a Subscriber Agreement for each Solo Offering. Reseller shall be free to determine the price at which it resells the Solo Offerings to such Second Tier Reseller. Any right of Second Tier Reseller to market or resell the Solo Offerings pursuant to the foregoing provision shall terminate immediately upon any termination or expiration of this Agreement, and Solo shall not be obligated to honor or fulfill any orders for Solo Offerings placed by

any Second Tier Reseller which are not already the subject of an Order Form fully executed by Solo and Reseller prior to the date of termination.

2.3 Reserved.

2.4 Trademarks. Subject to Reseller's compliance with this Agreement, Solo hereby grants to Reseller a nonexclusive, nontransferable, royalty-free right and license to use certain Solo.io trademarks made available to Reseller (the "**Solo Trademarks**") in connection with the promotion and marketing of the Solo Offerings during the Agreement Term. All right, title and interest to the Solo Trademarks will remain with Solo and no other license relating thereto is granted hereunder. Upon any expiration or termination of this Agreement, the license to Reseller to use the Solo Trademarks will terminate. Prior to any use of the Solo Trademarks, Reseller will provide Solo with a sample of all promotional materials that make use of the Solo Trademarks for Solo to approve each such use; provided, that once particular promotional materials have been approved, Reseller may reuse them in a similar context (without modification) without obtaining separate approval from Solo. Reseller will not challenge, directly or indirectly, Solo.io rights in or with respect of the Solo Trademarks.

2.5 Subscriber Agreement. When executing an Order Form with Solo, Reseller represents and warrants that Reseller will obtain consent from Subscriber in a legally enforceable way to the applicable Subscriber Agreement. To the extent Subscriber and Solo have separate written terms governing the purchase of the Solo Offerings listed in an Order Form ("**Negotiated Subscriber Agreement**"), Reseller warrants and represents that Reseller will (i) verify that such Negotiated Subscriber Agreement governs the Solo Offerings under the Order Form prior to execution and (ii) reference that such Negotiated Subscriber Agreement governs on Reseller's ordering document with Subscriber or, to the extent that such Negotiated Subscriber Agreement does not govern the Solo Offering, obtain consent from the Subscriber for the Subscriber Agreement (Subscriber Agreement and Negotiated Subscriber Agreement, collectively, the "**Applicable Subscriber Agreement**").

2.6 No Unauthorized Representations and Warranties. Reseller shall make no representations, guarantees or warranties of any type with respect to the specifications, features, capabilities or otherwise concerning the Solo Offerings, which are in addition to or inconsistent with those set forth herein or the terms of the applicable Subscriber Agreement. Reseller shall be solely responsible for, and Solo shall have no legal obligation to honor, any warranties that Reseller provides to Subscribers to the extent that such warranties are broader or greater in scope than those made by Solo to Reseller hereunder or by Solo to Subscriber under the Applicable Subscriber Agreement.

2.7 Insurance. Reseller shall at its own cost during the the Agreement Term maintain insurance with a reputable company that is customary for its business to cover the business activities contemplated by this Agreement.

2.8 Feedback. Subject to Solo's confidentiality obligations under Section 4 of this Agreement, Reseller and its Affiliates, and their respective employees, may, on an entirely voluntary basis, submit feedback or suggestions, and Solo and its Affiliates may use and modify such feedback or suggestions without any restriction or payment.

2.9 Records. During the Agreement Term and for at least five (5) years thereafter, Reseller will keep and maintain commercially reasonable written records regarding Reseller's use and distribution of the Solo Offerings and related business activities ("**Records**"). No more than once per year, Solo may, at its own expense, verify the Records to verify Reseller's compliance with this Agreement. This verification will take the form of requests for information, documents or Records (to which Reseller will respond promptly). The parties will act reasonably and cooperate with each other in respect of such verifications.

2.10 Reserved.

3. SUPPORT SERVICES

3.1 Support Services Delivered by Solo. If Solo provides Support Services to Subscriber, Solo will provide Support Services in accordance with the technical support policy more fully described on an Order Form (the "**Technical Support Policy**"). Solo may modify the Technical Support Policy but agrees not to materially diminish the level of Support Services during the term of the Order Form.

3.2 Support Services Managed by Reseller. If indicated in an Order Form, Reseller may manage Support Services on behalf of Subscriber. In such instance, Subscriber will not have access to the Support Services directly and the Technical Support Policy will apply to Reseller's submission of support tickets to Solo. Reseller will have the discretion to define a support structure with the

Subscriber directly.

3.3 Reservation of Rights. Solo and its licensors shall retain all rights, title and interest, including all intellectual property rights, in, to and under the Solo Offerings, all add-ons to any Solo Offerings or the like, any training and other educational materials, and any deliverables created or made available as part of the Solo Offerings and/or Support Services, together with all modifications, updates, enhancements, improvements and derivative works in any of the foregoing (collectively, the “**Solo Technology**”). Nothing in this Agreement shall be deemed to prohibit Solo from using for any purpose any general knowledge, skills, techniques or methods it learns in the course of performing Solo Offerings and/or Support Services. Reseller agrees not to infringe, misappropriate or violate any intellectual property rights of Solo.

4. **CONFIDENTIAL INFORMATION**

4.1. Definition. “**Confidential Information**” means any non-public information disclosed by either party or its Affiliates to the other party that a reasonable person should understand to be confidential due to the circumstances of disclosure or the nature of the information itself. Confidential Information includes Solo Offerings, all materials and communications concerning either party’s business, including, without limitation, pricing, reports, security information and assessments, technical information and the terms of this Agreement, and all notes, summaries and analyses of the foregoing prepared by the receiving party. Confidential Information excludes information: (i) was or becomes generally known to the public other than as a result of a disclosure by the receiving party in violation of this Agreement; (ii) was known, without restriction as to use or disclosure, by the receiving party prior to receiving such information from the disclosing party; (iii) is rightfully acquired by the receiving party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (iv) is independently developed by the receiving party without access to any Confidential Information of the disclosing party.

4.2 Use of Confidential Information. The receiving party shall keep the Confidential Information in strict confidence during the Agreement Term and thereafter. Except as otherwise required by law or approved in writing by the disclosing party, the receiving party may not disclose any Confidential Information: (i) to any person or entity other than to the extent required for Solo to provide the Solo Offerings to Subscriber and for Reseller to resell the Solo Offerings and, if applicable, provide Support Services; (ii) to a third party without the disclosing party’s prior written authorization (except in connection with (a) the enforcement of a party’s rights under this Agreement or (b) a potential merger, acquisition or sales of all or substantially all of a party’s assets).

4.3 Compelled Disclosure. If the receiving party is requested or legally compelled (by valid and effective subpoena or order issued by either a court of competent jurisdiction), or is required by a regulatory body, to disclose Confidential Information of the disclosing party, the receiving party shall, unless prohibited by force of law: (i) provide the disclosing party with prompt notice (so long as time permits) of any such request or requirement before disclosure so that the disclosing party may seek an appropriate protective order or other appropriate remedy; and (ii) provide reasonable assistance to the disclosing party in obtaining any such protective order. If the receiving party is nonetheless legally compelled or otherwise required to disclose, the receiving party will furnish only that portion of the Confidential Information that is legally required and shall make reasonable efforts to obtain reliable assurance that confidential treatment will be accorded any part of the Confidential Information so disclosed.

4.4 Return of Confidential Information. All documents and other tangible objects containing or representing Confidential Information that have been disclosed by either party to the other party, and all copies in the possession of the other party, are and will remain the property of the disclosing party. At the disclosing party’s written request, the receiving party shall promptly return or destroy all of those documents or objects; provided that, the receiving party may retain copies of such Confidential Information (i) for archival purposes, (ii) as required by applicable law, and (iii) to the extent such copies are electronically stored in accordance with the receiving party’s document retention or back-up policies or procedures (including, without limitation, those regarding electronic communications), in each case, so long as such Confidential Information is kept confidential as required under this Agreement.

5. **FEES, PAYMENT AND TAXES**

5.1 Orders, Fees and Payment. Reseller shall place order for Solo Offerings under this Agreement by executing an Order Form. Reseller agrees to pay for all fees due under each Order Form or otherwise incurred by Reseller or the applicable Subscriber under this Agreement within thirty (30) days of receipt of an applicable invoice. Payments will be made without right of set-off or chargeback. All Order Forms are non-cancellable, and all fees are non-refundable and based on the Solo Offerings purchased, not actual usage.

5.2 Prices and Discounts. Prices for Solo Offerings are set at then-current prices, less any applicable discounts offered to Reseller. Reseller is solely responsible for establishing the prices at which it resells Solo Offerings. Solo may change prices or discounting offered at any time.

5.3 Late Payment and Interest. Any amount not paid when due will be subject to interest of 1.5% of the unpaid balance or the highest rate permitted by applicable law, whichever is less. Reseller will reimburse Solo for any costs to collect late payments.

5.4 Taxes. All fees stated on an Order Form are exclusive of any applicable sales, use, value-added, import or export and excise taxes levied upon the delivery or use of the taxable components if any of the Solo Offerings purchased by Reseller under this Agreement (collectively, "**Taxes**"). Taxes do not include taxes on the net income of Solo or any of its Affiliates. Unless Reseller provides evidence of an exemption from the relevant Taxes, Reseller will pay and be solely responsible for all Taxes and will gross up any payment to include such Taxes. If a taxing authority pursues Solo for unpaid Taxes for which Reseller is responsible for under this Agreement and which Reseller did not pay Solo, Solo may invoice Reseller and Reseller will pay such Taxes, including all applicable interest and penalties, to Solo or directly to the taxing authority with receipt of payment to Solo.

5.5 Future Functionality. Reseller's purchase is not contingent on the delivery of any future functionality or features, or dependent on any oral or written comments made by Solo regarding future functionality or features. Reseller is purchasing Solo Offerings based solely upon functionality and features that are currently available at the time of executing an Order Form. The development, release and timing of any features or functionality remains in Solo's sole discretion.

6. TERM AND TERMINATION

6.1 Term. This Agreement commences on the Effective Date and continues until terminated in accordance with the terms of Section 6.2 below. Notwithstanding the expiration of this Agreement, its terms will continue to apply to any Order Form that has not been terminated or has not expired.

6.2 Termination.

6.2.1 *Reserved*.

6.2.2 *For Breach*. If a party fails to cure a material breach of this Agreement or an applicable Order Form within thirty (30) days after receipt of written notice of the breach, the other party may terminate this Agreement or the applicable Order Form, respectively. Termination of this Agreement will terminate all Order Forms in effect.

6.2.3 Effect of Termination. Upon expiration or termination of this Agreement, Reseller shall cease to be an authorized reseller of Solo Offerings and will have no right to market, sell or distribute the Solo Offerings and will cease use of all Solo Confidential Information. Any Solo Offerings sold by Reseller prior to the termination of the Agreement, and Reseller's payment obligations associated therewith, shall survive in accordance with the terms of the Applicable Subscriber Agreement. Any provisions intended by their nature to survive termination of this Agreement shall survive.

7. WARRANTIES

7.1 Solo Warranties. Any warranty for Solo Offerings will be provided directly from Solo to Subscriber under the applicable Subscriber Agreement.

7.2 Disclaimer. EXCEPT AS SET FORTH IN THIS SECTION 7, THE SOLO OFFERINGS AND SOLO TECHNOLOGY ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND AND SOLO MAKES NO ADDITIONAL WARRANTIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE SOLO OFFERINGS AND SOLO TECHNOLOGY FURNISHED OR PROVIDED TO SUBSCRIBER UNDER THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, SOLO EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT WITH RESPECT TO THE SOLO OFFERINGS AND SOLO TECHNOLOGY FURNISHED OR PROVIDED TO SUBSCRIBER UNDER THIS AGREEMENT. SOLO DOES NOT WARRANT THAT THE SOLO OFFERINGS AND SOLO TECHNOLOGY ARE ERROR-FREE OR THAT THE OPERATION OF SUCH WILL BE UNINTERRUPTED.

8. INDEMNIFICATION

8.1 Solo Indemnification.

8.1.1 *IP Claims.* Solo will, at Solo's expense, either defend Reseller from or settle any claim, proceeding or suit brought by a third party against Reseller, alleging that Reseller's marketing or resale of the Solo Offerings during the Agreement Term infringes or misappropriates such third party's intellectual property rights ("**IP Claim**"). Solo will indemnify Reseller from and pay: (i) all damages, costs and attorneys' fees finally awarded against Reseller to such third party to the extent resulting from such IP Claim; (ii) any settlement amounts consented to by Solo in connection with such IP Claim; and (iii) all out-of-pocket costs incurred within five (5) days of receipt of such IP Claim by Reseller prior to tendering the defense of an IP Claim to Solo. For the avoidance of doubt, (1) any costs incurred beyond five (5) days after receipt will be at Reseller's own cost and expense, and (2) Solo will not pay for any out-of-pocket costs incurred by Reseller once the IP Claim is tendered to Solo.

8.1.2 *Exclusions.* Solo will have no obligation under Section 8.1.1 to the extent an IP Claim is based upon: (i) Reseller's marketing or resale of a Solo Offering that has been that has been modified if such modification is not made by Solo or its authorized subcontractor, or (ii) use of a Product or Solo Technology other than in accordance with this Agreement.

8.1.3 *IP Claim Remedies.* Solo may at its sole expense and option: (i) obtain the right to continuing marketing and reselling the Solo Offerings or Solo Technology; (ii) modify the infringing technology to avoid the infringement, or (iii) terminate Reseller's right to market or resell the Solo Offerings or Solo Technology. This Section 8 states the entire liability and obligations of Solo, and exclusive remedy of Reseller, for any actual or alleged infringement of any intellectual property right related to a Solo Offering and/or Solo Technology.

8.2 Reseller Indemnification. Reseller shall defend, indemnify and hold Solo harmless from any and all costs, losses, damages, liabilities and expenses (including reasonable attorney's fees and costs of litigation) resulting from (i) Reseller's failure to comply with Sections 2.5 and/or 2.6, or (ii) a third-party claim resulting from Second Tier Reseller's breach of the Second Tier Reseller Agreement (each, a "**Solo Claim**").

8.3 Indemnification Conditions. The indemnified party must: (i) give the indemnifying party prompt notice of the IP Claim or Solo Claim (collectively, the "**Claims**"), provided that failure to do so will only relieve the indemnifying party of its obligation under this Section 8 to the extent the indemnifying party ability to defend the Claim is materially prejudiced, (ii) grant the indemnifying party the full and complete control over the defense and settlement over the Claim; provided that the indemnifying party will not enter into any settlement agreement that requires any admission of liability or affirmative obligation on the part of the indemnified party other than the obligation for Reseller or Subscriber to cease using the affected Solo Offering or Solo Technology unless the indemnified Party consents otherwise in writing, and (iii) provide reasonable assistance in connection with the defense and settlement of the Claim. The indemnified party may participate in the defense of the Claim at the indemnified party's own expense.

9. **LIMITATION OF LIABILITY**

9.1 Indirect Damages Disclaimer. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, OR LOST PROFITS, LOST DATA, LOSS OF BUSINESS OR COSTS FOR SUBSTITUTE GOODS, OF ANY KIND, WHETHER BASED ON CONTRACT OR TORT, INCLUDING NEGLIGENCE, ARISING OUT OF A PARTY'S PERFORMANCE WITH OR FAILURE TO PERFORM THIS AGREEMENT.

9.2 Direct Damages Cap. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR A PARTY'S (I) INDEMNIFICATION OBLIGATIONS OR (II) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL A PARTY'S TOTAL, CUMULATIVE LIABILITY UNDER ANY ORDER FORM EXCEED THE AMOUNT PAID OR PAYABLE BY RESELLER UNDER THE ORDER FORM FOR THE AFFECTED SOLO OFFERINGS OR SOLO TECHNOLOGY UNDER SUCH ORDER FORM GIVING RISE TO THE LIABILITY FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE CLAIM.

9.3 Allocation of Risk. THE ALLOCATIONS OF RISK IN THIS SECTION 9 REPRESENT THE PARTIES AGREED AND BARGAINED FOR UNDERSTANDING OF THE PARTIES, AND THIS ALLOCATIONS IS REFLECTED IN THE PRICING OF SOLO IN AN ORDER FORM. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

10. **MISCELLANEOUS**

10.1 Anti-Corruption. Each party represents that it has not received any improper gift, bribe, kickback or payment from the other party in connection with this Agreement. Each party further agrees to comply with all applicable U.S. and foreign anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 and U.K. Bribery Act of 2010, and similarly applicable anti-corruption and anti-bribery laws.

10.2 Assignment. Solo may assign this Agreement to any Affiliate that is able to satisfy the obligations of this Agreement or in connection with a merger or sale of all or substantially all of Solo's assets or stock. Reseller may not assign or transfer this Agreement, in whole or in part, directly or by operation of law, without Solo's prior written consent. Subject to this Section, this Agreement will be binding upon and inure to the benefit for each party's respective permitted successors and assigns. Nothing will restrict Solo from subcontracting its obligations under this Agreement.

10.3 Competitor Access. Under no circumstance may a direct competitor of Solo access or use any Solo Offerings without Solo's written consent, which may be withheld in Solo's sole discretion. Further, Reseller may not access or use any Solo Offerings to compete with Solo.

10.4 Export Compliance. The Solo Offerings are subject to the export laws and regulations of the United States. Reseller represents that, it is not located in, and will not export, re-export, access or use, or permit any person to export, re-export, access or use, any Solo Offering in any U.S. embargoed country or region, or export, re-export, access or use any of the foregoing contrary to any U.S. export laws or regulations. Reseller acknowledges that remote access may in certain circumstances be considered a re-export.

10.5 Force Majeure. Neither party will be liable for, or be considered to be in breach of, or in default, under this Agreement, as a result of any cause or condition beyond such party's reasonable control.

10.6 Governing Law, Jurisdiction and Venue. This Agreement will be governed by the laws of the State of New York, without regard to its conflict of laws principles. All suits hereunder will be brought solely in Federal Court for the Southern District of New York, or if that court lacks subject matter jurisdiction, in any New York State Court in New York, New York. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

10.7 Government Rights. If a software Product or Solo Technology is licensed under a U.S. government contract, Reseller acknowledges that such is a "commercial item" as defined in 48 CFR 2.101 comprised of "commercial computer software" and "commercial computer software documentation." If acquired by or on behalf of any agency within the Department of Defense ("**DOD**"), the U.S. Government acquires a software Product and/or the Documentation, the same shall be subject to this Agreement, as specified in 48 C.F.R. 227.7202-3 and 48 C.F.R. 227.7202-4 of the DOD FAR Supplement ("**DFARS**") and its successors, and consistent with 48 C.F.R. 227.7202. Reseller acknowledges that this U.S. Government Rights clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software, computer software documentation or technical data related to any software Product under this Agreement and in any subcontract under which a software Product and Documentation are acquired or licensed.

10.8 Notices. Any notice shall be in writing unless required or permitted otherwise elsewhere in this Agreement. It is the desire of the parties to receive all notices via e-mail to the e-mail address set forth in the signature block of this Agreement. Such notices will be deemed delivered if acknowledged received by return e-mail, or if followed within one day by a mailed copy of such notice to the physical address specified as the bill-to on an applicable Order Form. Either party may from time to time change its address for notices by giving the other party notice of the change in accordance with this Section.

10.9 Publicity. Reseller agrees that Solo may identify Reseller as a reseller of Solo Offerings on its website and other promotional materials.

10.10 Relationship. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating an agency, partnership, joint venture or other form of joint enterprise or employment relationship between the parties.

10.11 Severability. If any provision of this Agreement is unenforceable, that provision will be modified to render it enforceable to the extent possible to give effect to the parties' intention and the remaining provisions will remain in full force and effect.

10.12 Non-waiver. Failure, neglect or delay by any party to enforce the provisions of this Agreement or its rights or remedies at any

time, will not be construed as a waiver of such party's rights under this Agreement, and no waiver will be binding unless made in an express writing signed by the waiving party.

10.13 Entire Agreement. This Agreement, together with any Order Forms executed by the parties, and the Technical Support Policy, each of which is incorporated by reference, constitutes the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior proposals, understanding, agreements and communications between the parties, whether oral or written, regarding such subject matter, including any non-disclosure agreements. In the event of any conflicts between the terms and conditions of any of the foregoing documents, the conflict shall be resolved based on the following order of precedence: (i) Order Form (but only for the transaction thereunder), (ii) this Agreement, and (iii) Technical Support Policy. Headings are provided for convenience only and will not be used to interpret the substance of this Agreement. For the avoidance of doubt, the parties hereby expressly acknowledge and agree that if Reseller issues any purchase orders or similar documents in connection with its purchase of Subscriptions or Professional Services, it shall do so only for its own internal, administrative purposes and not with the intent to provide any contractual terms, which are hereby deemed rejected and extraneous to this Agreement. The parties may amend this Agreement only by a written amendment signed by both parties. To facilitate execution, this Agreement may be executed by one or more of the parties in the form of an "Electronic Record," as such term is defined in the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. ("**ESIGN Act**"). The Agreement may be executed in as many counterparts as may be required to reflect all parties' agreement, all counterparts will collectively constitute a single agreement, and such "Electronic Signature," as defined in the ESIGN Act, will constitute an original and binding signature of a party. The fact that a document is in the form of an Electronic Record and/or is signed using an Electronic Signature will not, in and of itself, be grounds for invalidating such document. The parties agree that the terms and conditions of this Agreement are a result of mutual negotiations, and, therefore, the rule of construction that any ambiguity shall be applied against the drafter is not applicable and will not apply to this Agreement.