

# 6DEGREES

## RESELLER AGREEMENT

This Reseller Agreement (“**Agreement**”) is entered into as of the date set forth below by and between 6Degrees Ltd., reg. no. 515673317., a private company incorporated under the laws of the State of Israel (the “**Company**” or “**6Degrees**”), and the entity identified as “**Reseller**” below.

THIS AGREEMENT SHALL BE DEEMED SOLELY AS A PROPOSAL, UNTIL IT BECOMES AN EFFECTIVE AGREEMENT UPON ITS EXECUTION BY THE COMPANY, AT ITS SOLE DISCRETION.

<b><u>RESELLER INFORMATION:</u></b> [primary business contact] Organization: Contact Person: Address: Phone: Fax: Email:		<b><u>6DEGREES INFORMATION:</u></b> [ordering & payment contact] Organization: 6Degrees Contact Person: Miri Berger Address: Eliyahu (Kashak) Amikam 12, Tel Aviv, Israel 6811003 Phone: 949.357.6775 Fax: 949.266.9849 Email: <a href="mailto:Partners@6Degrees.tech">Partners@6Degrees.tech</a>	
<b><u>EFFECTIVE DATE:</u></b> Effective Date: DD/MM/YYYY _____	<b><u>SCHEDULE:</u></b> Target Launch Date: DD/MM/YYYY _____	<b><u>TERRITORY:</u></b> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____	
<b><u>6DEGREES SOLUTIONS AND TRAINING:</u></b>			
<b><u>SOLUTIONS AUTHORIZED FOR RESALE:</u></b> <input type="checkbox"/> 6Degrees <span style="background-color: yellow;">  </span> Products <input type="checkbox"/> 6Degrees Monthly Subscription Service <input type="checkbox"/> <b>6Degrees SAAS – will be available Q3-2022</b>		<b><u>RESELLER TRAINING:</u></b> <input type="checkbox"/> Videoconference Training <input type="checkbox"/> 6Degrees Partner Program Certified – 1 Hour Webinar Must Be Attended by at least one representative from your company <input type="checkbox"/> _____	

**RESELLER PRICING (PURCHASES OF EQUIPMENT):**

Pricing is per published 6DegreesPartner Program at the following levels for Hardware & Monthly Monitoring Pricing

<b>Partner Program Level</b>	<b>Annual Product Unit Commitment</b>	<b>Minimum initial order</b>	<b>Demo Units</b>	<b>Hardware Pricing</b>
<input type="checkbox"/> OEM/Distributor	1,000 Units Per Year	10 Units	Up to 8 free demo units a year	MyMove - 70% of MSRP (activation required)
<input type="checkbox"/> Platinum	500 + Units Per Year	5 Units	Up to 3 free demo units a year	MyMove - 75% of MSRP (activation required)
<input type="checkbox"/> Gold	100 + Units Per Year	2 Units	Up to 2 demo units a year each priced at 50% off MSRP	MyMove - 80% of MSRP (activation required)

**SIGNATURES:**

**NOW, THEREFORE, 6Degrees and Reseller have executed this Agreement by signature below of their duly authorized representatives as of the date hereof (the "Effective Date"). This Agreement may be executed in counterparts, each of which may be an original, PDF, fax or other reliable copy, all of which together shall constitute one and the same instrument. Reliable electronic copies shall be deemed to be as binding as originals for all purposes hereof.**

**RESELLER SIGNATURE:**

**6DEGREES SIGNATURE:**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

---

**ATTENTION    IMPORTANT!**

**Credit Card Requirement**

As part of the process to become a reseller for 6Degrees, you will be required to keep an active credit card on file with 6Degrees. This card is to cover any and all costs arising from unpaid fees on your account. The following link to submit card information is at [www.6Degrees.business/reseller\\_payment\\_form](http://www.6Degrees.business/reseller_payment_form).

**Customer Acceptance of 6Degrees Terms of Use**

Any Customer who elects to purchase the service offering must sign 6Degrees's Terms of Use found at [www.6Degrees.tech/terms](http://www.6Degrees.tech/terms) (6Degrees' Terms of Use)

---

## 1. Declarations of Parties

- 1.1 Company manufactures, sells and distributes the Company's "MyMove" system and any associated services, monthly subscription, or SaaS services and any updated version thereof that may be available from time to time (the "**Product**" or "**Products**").
- 1.2 Reseller declares that it has the required skills, experience, adequate personnel and abilities, including financial means, required to sell and distribute the Product, maintain inventory thereof and provide any associated services as defined in this Agreement below, within the territory checked above (the "**Territory**"), and in accordance with the terms set forth herein. Reseller is not a party to any agreement or understanding that may restrict its ability to perform its duties hereunder, nor is it subject to any court order or decree that may prevent it from entering into this Agreement or performing said duties hereunder.

## 2. Appointment of Reseller; Non-Exclusivity

- 2.1 Company hereby appoints Reseller, and Reseller hereby accepts appointment by Company, as a non-exclusive Reseller of the Product in the Territory during the term of this Agreement (the "**Term**"), subject to the terms and conditions herein. Nothing herein may restrict the Company to hire other individuals or entities to provide similar resale services in the Territory.
- 2.2 Reseller shall appoint one representative which shall be Company's point of contact for all matters related to this Agreement. Such appointment shall be brought to Company's knowledge in the "Reseller Information" checkbox above. Company shall be entitled to rely on any of representative's communication to it for all intents and purposes and to consider such communication as if made by Reseller.
- 2.3 Company shall be entitled to modify and/or add additional or change specifications and/or features of the Products from time to time. Company shall publish such modifications, specifications or features updates on its website or communicate them directly to Reseller, at its discretion.
- 2.4 In the event Company elects to introduce any new products or services in the Territory, Company may, in its sole discretion, offer Reseller the opportunity to sell such new product in the Territory in addition to the Product.

## 3. Reseller's Undertakings

- 3.1 Reseller shall use its best efforts to vigorously promote and sell the Product to individuals or organizations intending to make ongoing use of the Product ("**Customers**") in the Territory, in accordance with the Company's instructions, and shall at its cost and expense: (i) employ a sufficient number of specialized, trained, and qualified personnel to promote and sell the Products in the Territory; (ii) maintain a professional sales and service organization as necessary to install the Product at Customer locations and provide Product Customer training and service in the Territory; and (iii) otherwise operate its business in a professional and ethical manner, in each case in accordance with this Agreement. Reseller shall be responsible for Customer invoicing, collections, fulfillment, customer service, tech support and all other Customer-facing activities. "Customer" will not include any distributor, reseller, or other intermediary (other than Reseller) that does not purchase Solutions for their own use.
- 3.2 Reseller agrees that the continued maintenance of an image of excellence and ethical marketing of the Products is essential to the continued success of both Parties. Accordingly, Reseller shall avoid misleading and/or unethical practices in its dealings with Company or any third party in connection with the distribution or sale

of the Product, and shall not take any action which would impair or diminish the reputation or regulatory approvals of Company or its Product.

- 3.3 The Reseller shall investigate what is necessary to obtain from the relevant authorities any governmental, regulatory (including from the relevant national medical regulatory authorities) or other approvals, permits and/or licenses required for the sale of the Products within the Territory. Furthermore, the Reseller undertakes, at its own cost and expense, the registration of the Product, on behalf of the Company, with the relevant authorities in order to import, distribute and sell the Products and otherwise fulfil its obligations in accordance with the provisions of this Agreement. Reseller shall provide copies of all such approvals to the Company promptly after they are obtained. Only after the Reseller has obtained all the necessary regulatory approvals required for the sale of Products from the relevant authorities in the Territory, the Reseller may purchase Products from the Company in order to resell the same to Customers within the Territory. It is agreed that Company shall retain all right, title and interest in and to the registration of the Product in the Territory, and that the distribution of the Product in the Territory, under the Territory's applicable law, shall not require any further consent of Reseller.
- 3.4 Reseller shall comply with any and all applicable safety regulations and standards and such other applicable regulations and/or licensing requirements as promulgated by applicable governmental authorities and required in order to carry out the terms of this Agreement or sell or distribute the Product. Reseller shall hold Company harmless from the result of any such non-compliance. Reseller shall fully indemnify and hold harmless Company for any payments Company shall be required to pay to any third party in respect of such non-compliance with all such laws, rules or regulations.
- 3.5 As a prior condition and prior to conducting any activities hereunder, Reseller shall complete the Training (as defined below).
- 3.6 Reseller shall comply promptly with any recalls of the Product issued by Company or by any applicable regulatory authorities. Reseller shall promptly advise Company of any laws, rules or regulations in the territory that may require Company to modify a Product or otherwise take any action in connection with the Products or this Agreement.
- 3.7 Reseller shall notify the Company of any sales leads or business opportunity residing outside the Territory. Reseller shall not solicit orders from outside the Territory or conduct, directly, or indirectly, business with a third party whom it has reason to believe has the intention of selling the Product outside the Territory unless previously permitted to do so in writing by the Company.
- 3.8 Any engagement of Reseller with third parties in respect to the Product, including in respect to providing training and support for the Product but other than the sale of the Product, will require Company's prior written consent which shall be subject to Company's full and absolute discretion. Notwithstanding the above, Company may prohibit Reseller from selling Products to any individual or entities that it reasonably believes is using the Products in violation of: (i) the terms of this Agreement or any Customer agreement, or (ii) any law, regulation, policy, guideline, order or similar authority issued by a federal, state or local government or any agency, board or commission thereof.
- 3.9 Reseller shall not attempt to (i) modify, amend, alter, change, open the packages of, or disassemble the Product in any manner, (ii) sell any Product which have been so altered or modified, or (iii) sell any Product under circumstances which Reseller knows, or should know, will involve any such alteration or modification.
- 3.10 Reseller shall be solely responsible to furnish each Customer with the user manual of the Product and, where applicable, training material provided to it by the Company.

- 3.11 Reseller shall inform Company in a timely manner of any suit, claim and/or demand made against Reseller which has the potential to apply to Company, the Product or any part thereof, or otherwise is related to the Company or may be of an exposure to it.
- 3.12 Reseller will not, directly or indirectly (including through any affiliate thereof), (i) engage with, represent, work for or provide services to or for the benefit of any business entity or individual for the sale, lease or otherwise provision of product within the Territory that are competitive with or similar to the Product and/or Software and/or any combination thereof, or (ii) solicit or induce, or attempt to solicit or induce, any employee, consultant, vendor, Company or client of Company to leave or cease doing business with the Company for any reason whatsoever.
- 3.13 **Rights Not Granted.** This Agreement does not: (i) grant proprietary rights or licenses to Reseller other than as expressly set forth in this Section 2; (ii) authorize Reseller to legally bind Company, or (iii) authorize Reseller to solicit or offer Company Solutions to anyone other than an end user Customer.

#### **4. Company's Undertakings**

- 4.1. Company shall provide Reseller, at Company's expense, with materials in the English language such as digital files, artwork and advertising copy to assist Reseller in its preparation of sales promotional materials and to facilitate advertising of the Product.
- 4.2. Company shall provide Reseller, along with the Product, the then-current user manual of the Product and related documentation.
- 4.3. Company shall manufacture and deliver all orders placed by Reseller in a prompt and timely manner according to Company's production capability and as specified below.

#### **5. Training**

- 5.1. Reseller is required to complete the initial training certification program offered by the Company prior to conducting any activities hereunder (the "**Training**"). The initial training certification program is free of charge. If Reseller does not successfully complete the initial training certification program on the first attempt, Reseller may repeat the program until it achieves successful certification within the Company's Partner Program (then current training fees apply after the first attempt).
- 5.2. Upon successful completion of the Training (and re-certification from time to time as required), Reseller shall be authorized to do the following during the Term in accordance with the terms, conditions and limitations of this Agreement: to purchase, offer and re-sell the Product to Customers in the Territory.
- 5.3. **Additional Training.** The Company reserves the right to require additional training and certification from time to time. Such additional training and certification at no charge to Reseller, unless Reseller does not successfully complete the initial training certification program on the first attempt and undertakes additional training, in which case then-current training fees shall apply.

#### **6. Promotion**

- 6.1. Reseller shall use its best efforts and endeavors to promote and increase the sales of the Products in the Territory.

- 6.2. Reseller shall promote the Product in the Territory, in all appropriate media, including, without derogating from the generality of the above, displaying the Product along with its other products in relevant presentations, exhibitions, product catalogues, website and on-line stores.
- 6.3. Any Product promotional materials not created by Company will require Company written approval prior to publication.
- 6.4. It is clarified that the cost of promotional and advertising expenses shall be borne exclusively by Reseller. Reseller shall be solely responsible for, and shall bear the costs of, any sales and marketing material issued by it in an effort to promote the sale of the Product.
- 6.5. Any such marketing or sale material shall not include any representation about Company and/or the Product or any part thereof, that is materially inconsistent with the documentation for the Product as provided to Reseller by Company from time to time.
- 6.6. Reseller shall advertise and make known to the general public, along with other product it is selling and distributing, including through an internet site or other media, a comprehensive updated list of retailers or affiliates of its own behalf carrying the Product.

## **7. Orders; Reports**

- 7.1. Reseller will submit an electronic purchase order (each, a “**Purchase Order**”) to Company indicating the desired quantity of Product and all other requested information. Purchase Orders will be subject to acceptance by Company at its sole discretion. Company will provide Purchase Order acknowledgement via e-mail, within seven (7) days from the receipt of each Purchase Order. Order acceptance will include (i) verification of the item type, (ii) order confirmation number, (iii) price discrepancies, (iv) backorders and expected backorder release dates, (v) conformation of the delivery date. Failure to respond to any Purchase Order shall not be deemed as the acceptance thereof.
- 7.2. Reseller shall use the Purchase Orders forms supplied by the Company and observe all policies and procedures prescribed by the Company in writing for the purchase of Products.
- 7.3. Any Purchase Order may not be changed or otherwise modified, unless such changes or modifications are made in writing and are confirmed in writing by Company and Reseller.
- 7.4. Reseller shall notify the Company in writing regarding any supplied Products which were found defective no later than 30 days from the date of delivery of such Product. Defective Products will be replaced by Reseller with Products from its inventory, and then delivered back to Company for fixing or replacement at Company's discretion.
- 7.5. Reseller shall provide Company thirty (30) days prior to the start of each calendar quarter with a rolling twelve (12) month forecast indicating Reseller's Product requirements on a quarterly basis (each, a “**Forecast**”). The Forecast shall be non-binding. In addition, Reseller shall provide Company each month with monthly sale reports as well as on-demand sale reports, as requested by Company from time to time.
- 7.6. The Company reserves the right to accept or reject purchase orders in its sole and absolute discretion. the Company reserves the right to independently verify all orders submitted by Reseller and require prepayment or other forms of security based on the Company's estimation of Reseller's creditworthiness. the Company shall have no liability to Reseller or any third party for its acceptance or rejection of orders.

- 7.7. Reseller shall maintain records of its sales activities for two years after each sale of the Product to a Customer, and shall make such records available to the Company upon request.
- 7.8. Annual Planning Meeting - Reseller shall set an Annual Planning Meeting with the Company in which the reseller; (i) will present its planned marketing and promotional activities for the coming year (ii) will review its marketing and promotional activities in the previous year.

## **8. Prices of Product & Minimum Sales Guarantee**

- 8.1. All prices of the Product as purchased from Company by Reseller are specified in the checkbox above, according to the "Partner Program Level" (the "Level") chosen by Reseller above. All prices specified in the price-list are in US Dollar, and do not include VAT. VAT, at the applicable rate, shall be added to each invoice issued by Company to Reseller. It is agreed that Reseller will be entitled to sell the Product at a price higher than the prices set forth herein.
- 8.2. Company shall be entitled to increase or decrease the price of the Product by providing Reseller with thirty (30) days' prior notice. All Purchase Orders issued and accepted prior to the lapse of such notice period shall be at the prices in effect prior to the relevant change.
- 8.3. Unless otherwise agreed between the Parties in an executed order, the Products Reseller discounted MSRP prices are inclusive of order incoterms EXW Ex Works TEL AVIV but are expressly exclusive of and do not include costs and expenses of importing levies and expenses, taxes, duties and insurance, all of which shall solely be under Reseller's responsibility. Reseller will be solely responsible for any other costs and expenses necessary to be incurred for conveying the Product to Reseller's place of business in the Territory.
- 8.4. Reseller shall be held liable for payment in respect of all ordered Product Units.
- 8.5. All payments shall be made in US Dollars, free of any withholding, income or other taxes or deductions. Per any Purchase Order, 100% of the purchase amount shall be paid upfront prior to shipment. The Reseller shall not receive title to the Product until each order has been paid for in full.
- 8.6. Risk of loss or damage will pass to Reseller when Products are delivered to carriers. Reseller shall be fully responsible for maintaining, at its expense, full insurance coverage for the shipments of the Products purchased, with an internationally reputable insurance company. Company's name shall be added as a beneficiary to the insurance policies.
- 8.7. During the Term, Reseller undertakes to make the minimum purchase of Products as detailed in the checkbox above, according to the "Partner Program Level" (the "Level") chosen by Reseller (the "Unit Commitment"). Reseller acknowledges that the Unit Commitment is a material part of this Agreement.

## **9. Set-off**

- 9.1. Reseller shall not be allowed to set-off any amounts due to Company in respect of any claim whatsoever, including in respect to any claim by Reseller against Company or in respect to any third-party claim against Reseller in the scope of terms in which Reseller believes that Company should be liable.

## **10. Right to Receive Information**

- 10.1. Reseller shall exercise due diligence and shall keep Company informed in writing about market conditions, the state of competition within the Territory and all of its activities. Reseller shall promptly answer any reasonable request for information made by Company.

## **11. Support**

- 11.1. Reseller shall provide support to Customers according to the Support Terms and Conditions attached hereto as **Schedule A**, as shall be amended from time to time by the Company, so long as such terms do not violate applicable law.
- 11.2. Company may require Reseller to create and maintain a dedicated website (localized) with a local domain name, for supporting customers and granting them access to training guides and information.

## **12. Product Warranty; Recalls; Insurance**

- 12.1. Vis-à-vis the Reseller, the Product shall be covered by the Reseller warranty terms included in **Schedule B**, as updated or modified from time to time at Company's sole discretion. Reseller will issue local warranty certificate to Customers as required, and in accordance with, local laws in the Territory. Reseller will own and operate Customer service and support centers in the territory as required by local laws in the Territory. Such service and support centers will, among other things, provide Warranty support to Customers.
- 12.2. Reseller shall immediately inform Company in writing of any complaints received from Customers in respect of the Product or of any irregular events (including events resulting in bodily injury or monetary damages) involving the use of the Product and shall deal promptly and properly with such complaints or events. Reseller shall promptly report to Company any adverse event, product failure, Customer feedback, and other information as required by the Company's post-marketing surveillance plan which may be updated from time to time. Reseller hereby acknowledges and agrees that Company shall have the right to use the post-marketing surveillance information for Product improvements, without any additional compensation or notification to Reseller.
- 12.3. In the event of any recall or other product corrective action with respect to a Product which is required by a governmental agency for safety or efficacy reasons, or requested by Company at its sole discretion or otherwise, unless such recall results from Reseller's negligence or willful misconduct, Company shall repair or replace, at Company's own cost and expense, all Product subject to the recall and previously delivered to Reseller. If such response is not feasible, the Parties shall jointly define a corrective action strategy. Company shall consult with Reseller to establish a reasonable process for managing the recall. In the event the recall is not required by a governmental agency for safety or efficacy reasons, but is instead requested by Company at its sole discretion, Company will be responsible for determining the scope of the recall, including the number of units, timeframe for the recall, and criteria for completion, at no cost or expense to Reseller. Reseller will provide Company with full cooperation and assistance in planning and executing any Product recall and will comply with Company's instructions in connection therewith. Reseller shall bear all costs associated with a recall or corrective action required or initiated due to Reseller's negligence or wilful misconduct, without derogating from any remedy legally available to Company. Reseller shall not initiate a recall, retrofit or warning related to the Product without Company's written consent unless required by a government agency.
- 12.4. Reseller shall procure from reputable and financially sound insurers, and maintain in full force and effect throughout the Term, and thereafter in connection with its performance under this Agreement, such insurance coverage as is consistent with good commercial practice in the Territory for the activities contemplated by this Agreement, which policies shall name the Company and its designated affiliates as additional insureds and provide that such policies cannot be cancelled or its coverage materially altered without thirty (30) days prior written notice to all named insureds. Reseller will provide Company with evidence of such coverage as Company may reasonably request.

12.5. Reseller warrants to Company it has or will obtain prior to the commencement of the sale of Product hereunder all requisite valid and paid insurances necessary to cover its legal liability arising out of the performance of its obligations hereunder, for such coverage and in such sums not less than is customary in the in the Territory for Resellers of medical devices similar to the Product and provision of related services. At Company's request, Reseller shall provide Company a copy of such policy.

### **13. Company's Intellectual Property**

- 13.1. Except as otherwise expressly set forth in this Section 13, no right, title or interest in a party's intellectual property rights is granted, either expressly or by implication, to the other party, and each party shall own the rights to its respective intellectual property.
- 13.2. Reseller acknowledges and agrees that any and all (i) proprietary rights in and to the Product, including but not limited to patents, patent applications, improvements, modifications, trade secrets, know how, copyrights and trademarks, (ii) intellectual property pertaining to the Product, anywhere in the world, whether or not reduced to practice, and whether or not patentable or otherwise protectable, (iii) intellectual property pertaining to the tradenames "6Degrees" or "MyMove", or any other Company proprietary tradenames as published from time to time (collectively, the "**Intellectual Property**") shall remain the sole property of Company, and may not be duplicated by Reseller or used by it except to the extent required for the purpose of fulfilling its duties hereunder. Other than as specifically set forth in this Agreement, Reseller has no right, title or interest in or to the Intellectual Property or the use thereof. Reseller agrees that upon termination of this Agreement it shall immediately cease and discontinue all use of the Intellectual Property. Reseller undertakes that neither it nor its affiliates shall assert against Company and its assignees, any claim asserting that Reseller or its affiliates have any intellectual property rights in the Product.
- 13.3. Reseller shall not make any changes in the Product, its design, characterization, or any part or element thereof, or add any components or content to the Products or any part thereof, or otherwise disassemble or reverse engineer, or use the Products in any way.
- 13.4. Company hereby grants Reseller a limited, revocable, non-assignable, non-exclusive and non-transferable royalty-free license during the Term to copy, reproduce and use any Company trademark, trade name or logo or similar items associated with the Product or any part thereof (the "**Marks**") in connection with the advertisement, promotion, sale and use of the Product. Reseller shall not remove, obscure, conceal or alter any Marks on the Product. In addition, the license granted hereunder does not include the right to sublicense any of the Marks other than in accordance with policies of Company in effect from time to time. This limited license shall automatically expire on the date on which this Agreement is terminated. Upon Termination (as defined below), Reseller shall completely and permanently cease any use of the Marks.
- 13.5. Reseller shall submit all promotional and advertising materials to Company for prior review and approval, and shall include, in a manner that is visible, the Company's Marks, and acknowledgement and ownership notices referring to Company as the developer and proprietary owner of all rights to the Products. Any Marks of Company appearing on the Products shall not be erased, covered or otherwise removed.
- 13.6. The right to use the Company's Intellectual Property, Marks and/or trade secrets shall cease immediately on the expiration or termination, for any reason, of this Agreement.
- 13.7. Company hereby grants to Reseller a limited, revocable, non-assignable, non-transferable, non-exclusive license to use and sell the Software for use solely in connection with the use of the Product by Customers, in accordance with the terms of this Agreement and the terms of Company's Terms of Use as may be found in the following link [www.6Degrees.tech/terms](http://www.6Degrees.tech/terms) and as amended from time to time.

- 13.8. Reseller shall notify Company promptly of any suspected infringement or passing off or any adverse pending or threatened litigation or other proceedings concerning Company's Intellectual Property, including Company's Marks, which may come to Reseller's attention. Company shall have the right but not the obligation to prosecute, defend and conduct at its own expense all suits involving infringement of its Intellectual Property.
- 13.9. It is agreed and acknowledged that Reseller is not entitled to access, make any use whatsoever or share with third parties any data aggregated by Customers, generated with the use of the Product or otherwise recorded in the Product's web portal. To the extent Reseller becomes aware that it was accidentally granted access to such data, it shall promptly inform Company of such access and shall be prohibited from further accessing the data.

#### **14. Term of Agreement; Termination**

- 14.1. This Agreement shall commence on the Effective Date and shall remain valid for one year from the Effective date/until [REDACTED]. The Parties may agree by mutual consent to renew the Agreement upon the lapse thereof.
- 14.2. Each Party shall be entitled to terminate the Agreement if the other Party is in breach of its obligations hereunder and such breach has not been fully cured within 45 calendar days from receiving a notice in respect of such breach from the Company.
- 14.3. Notwithstanding anything to the contrary herein and without derogating from any other remedy Company is entitled to under law, Company shall be entitled to terminate this Agreement with immediate effect, upon the occurrence of the following events:
  - 14.3.1. Reseller is in breach of Sections 1.3, 3, 8 and 12 through 17 hereof, provided that said breach remains uncured within 7 days' notice thereof;
  - 14.3.2. Reseller is not meeting its Annual Product Unit Commitment and such breach is not cured within 7 days' notice thereof;
  - 14.3.3. Reseller has been convicted of criminal activity or Company decided, at its sole discretion, that any Reseller activity might jeopardize its, or the Product, reputation;
  - 14.3.4. Bankruptcy, liquidation or receivership or execution proceedings have been initiated against Reseller and not been removed within 30 days of initiation;
- 14.4. Upon termination of the Agreement for any reason whatsoever Reseller shall notify all relevant third parties to this effect, and shall refrain from making any representation to any third party claiming to be a Reseller of the Product.

#### **15. Confidentiality**

- 15.1. Confidential information shall be deemed to include all information of confidential or proprietary nature of the Disclosing Party received or obtained by, or disclosed or provided to, the Receiving Party in any medium whatsoever (the "**Confidential Information**").
- 15.2. Each Party (the "**Receiving Party**") acknowledges that it has and/or will receive confidential information from the other Party (the "**Disclosing Party**") before and after the Effective Date in connection with this Agreement. Any Confidential Information disclosed by Disclosing Party to Receiving Party shall remain the sole property of the Disclosing Party. The Receiving Party agrees to maintain the confidentiality of the Confidential Information at the same level of care that it maintains its own confidential information, and not less than a

reasonable level of care, and agrees neither to use such information (except for the purposes permitted herein) nor to disclose it to any third party or to any of its officers, employees, agents or representatives (“**Representatives**”) who do not have a need to know such information in order to perform their obligations under this Agreement.

- 15.3. The Receiving Party shall remain responsible for its Representatives’ compliance with the Confidential Information non-use and non-disclosure obligations hereunder.
- 15.4. Confidential Information shall not include any information which is publicly available at the time of disclosure or subsequently becomes publicly available through no fault of the Receiving Party, or is lawfully acquired by Receiving Party from a third party who is not in breach of an agreement or obligation to keep such information confidential. Notwithstanding the aforesaid, a Party shall be entitled to disclose Confidential Information to the extent it is required to do so under a court order or decree, and shall, to the maximum extent legally possible, provide prior notice of such expected disclosure to the Disclosing Party to enable the Disclosing Party to seek legal remedy, and shall only disclose information to the minimum extent it is legally required to do so.
- 15.5. Upon termination of this Agreement, the Disclosing Party shall return to the Receiving Party or lawfully destroy all Confidential Information of the Disclosing Party, without maintaining any copies thereof, except, to the extent required for regulatory purposes and for such purposes only, one copy of such relevant Confidential Information.

## **16. Liability**

- 16.1. **Warranty Disclaimer.** THE PRODUCT AND SOFTWARE IS PROVIDED “AS IS”. THE WARRANTY PROVIDED CONSTITUTES COMPANY’S SOLE AND EXCLUSIVE LIABILITY FOR DEFECTIVE OR NONCONFORMING PRODUCT. SUCH WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, AND IS IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF COMPANY FOR DAMAGES. This section excludes the civilian responsibility of Company as regards any hidden defect in the Product, wrong notice or information of Company for the Product and more generally all damage caused by any act of Company.
- 16.2. NEITHER PARTY SHALL BE LIABLE FOR ANY EXPENSES, LOSSES OR DAMAGES, OF ANY KIND, INCURRED BY THE OTHER PARTY OR ITS OFFICERS, EMPLOYEES, CONSULTANTS OR AGENTS, WHICH ARISE OUT OF OR IN CONNECTION WITH THE TERMINATION, NON-RENEWAL OR EXPIRATION OF THIS AGREEMENT. Termination, non-renewal, or expiration of this Agreement shall not, however, operate as a cancellation of any indebtedness owed by one Party to the other at such time.
- 16.3. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR (I) ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR PERFORMANCE BY SUCH PARTY UNDER THIS AGREEMENT EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) ANY DAMAGES EXCEEDING ITS LIABILITIES UNDER APPLICABLE LAW. THE FOREGOING WILL IN NO WAY LIMIT COMPANY’S RIGHT TO CLAIM PAYMENT FROM RESELLER FOR PRODUCT SUPPLIED TO IT HEREUNDER.

## **17. Indemnification**

17.1. **Indemnification.** Reseller shall defend, indemnify and hold harmless the other party from and against any and all third-party claims and related judgments, damages, liabilities, and attorney fees, arising from Reseller's grossly negligent acts or omissions, willful misconduct or breach of its obligations under this Agreement.

## 18. Miscellaneous

18.1. **Headlines.** The headlines herein are for convenience only and shall have no interpretive value.

18.2. **Independent Contractor.** The relationship between Company and Reseller will be that of vendor and purchaser and Reseller is in no way the legal representative, agent, partner, joint venturer or employee of Company for any purpose whatsoever and has no right or authority to assume or create, in writing or otherwise, any obligation of any kind, express or implied, in the name of or on behalf of Company or to represent itself as such.

18.3. **Force Majeure.** Performance under the Agreement shall be excused or suspended if prevented or delayed by fire, explosion, unavoidable breakdown of machinery, government acts or regulations, war, attack or any other military activity, strikes or labor disputes, act of God or by any other similar circumstances of any character reasonably beyond the control of the Party so excused. Performance shall be resumed if and when the reason preventing it has ceased to exist.

18.4. **Severability.** If any condition of this Agreement shall at any time be held to be void, invalid or unenforceable such condition, shall be construed as severable and such holding shall apply only to such condition and shall not in any way affect or render void, invalid or unenforceable any other condition of this Agreement, and this Agreement shall be carried out as if such void, invalid or unenforceable condition were not embodied therein.

18.5. **Waiver.** The failure at any time by either Party to enforce any of the terms or conditions or any right or to exercise any option of this Agreement shall in no way be construed to be a waiver of such terms, conditions, rights or options, or in any way to affect the validity of this Agreement.

18.6. **Assignment.** Reseller may assign its rights under this Agreement subject to the Company's written consent, provided, however, that (i) the assignee agrees in writing to be bound by the obligations set forth herein and is capable of performing its duties under the Agreement; (ii) the Company reserves the right to require that such assignee shall complete Training.

18.7. **Entire Understanding.** This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof, and shall supersede all prior agreements, understandings, representations or commitments oral or written.

18.8. **Notices.** All notices and other communications required or permitted hereunder to be given to a party to this Agreement shall be in writing and shall be emailed or mailed by registered, electronic or certified mail, postage prepaid, or otherwise delivered by hand or by messenger, addressed to such party's address as set forth in the heading of this Agreement or at such other address as the party shall have furnished to each other party in writing in accordance with this provision Any notice sent in accordance with this Section shall be effective (i) if mailed by registered mail, seven (7) days after mailing, (ii) if sent by messenger, upon delivery, and (iii) if sent via email, upon transmission (provided that no notification of failure to deliver was received) or (if transmitted and received on a non-Business day) on the first Business Day following transmission and electronic confirmation of receipt (provided, however, that any notice of change of address shall only be valid upon receipt). "**Business Day**" shall mean Sunday to Thursday, excluding: (i) Jewish holidays; and (ii) other days in which most of the banks in Israel are closed.

18.9. **Governing Law and Jurisdiction.** This Agreement shall be governed by the laws of The State of Israel (excluding conflict of laws principles). The competent courts in Tel Aviv - Jaffa shall have exclusive jurisdiction to pass judgment upon any dispute referred to them by either Party, arising out of this Agreement. Such judgment shall be final and binding on all parties.

*[Remainder of page intentionally left blank. Signatures to follow.]*

**IN WITNESS WHEREOF**, the parties have executed this Agreement by their duly authorized officers as of the date first set forth hereinabove:

\_\_\_\_\_  
Company  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Reseller  
By: \_\_\_\_\_  
Title: \_\_\_\_\_

List of Schedules:  
*Schedule A – Support Terms and Conditions*  
*Schedule B – Product Reseller Warranty*