

INFREQUENT PURCHASE RESELLER AGREEMENT

THE ENTITY ("RESELLER") IDENTIFIED ON THE QUOTE ISSUED BY WINMAGIC INC. OR WINMAGIC SUBSIDIARY IDENTIFIED ON THE QUOTE ("WINMAGIC") TO RESELLER (THE "QUOTE") AGREES THAT IT MAY RESELL THE WINMAGIC PRODUCTS AND/OR SERVICES LISTED ON THAT QUOTE TO THE END USER IDENTIFIED ON THAT QUOTE ONLY IF RESELLER AGREES TO THE TERMS AND CONDITIONS OF THIS INFREQUENT PURCHASE RESELLER AGREEMENT (THE "AGREEMENT"). IF RESELLER DOES NOT AGREE TO THESE TERMS AND CONDITIONS, RESELLER MAY NOT RESELL SUCH WINMAGIC PRODUCTS AND/OR SERVICES.

1. Resale to End User. Subject to the terms and conditions of this Agreement, Reseller may resell the Products and Services directly to the end user identified on the Quote ("End User") for the End User's internal use only and not for further resale, subject to the terms of the software license agreement located at www.winmagic.com/products ("EULA"). Reseller shall deliver the Products only as packaged by WinMagic with the documentation intact. "Products" means the Software products listed on the Quote and related documentation. "Software" means machine readable software provided by WinMagic, (whether initially, as part of maintenance or support or otherwise), and any related documentation. "End User Support" means WinMagic's currently generally available End User maintenance and support services listed on the Quote, as more fully described at www.winmagic.com/support. "Services" means End User Support. THIS IS NOT A GENERAL APPOINTMENT OF RESELLER AS AN AUTHORIZED RESELLER OF WINMAGIC, BUT IS LIMITED ONLY TO THE SPECIFIC WINMAGIC PRODUCTS AND SERVICES PURCHASED BY RESELLER REFERENCED IN THE QUOTE AS AUTHORIZED BY WINMAGIC ON A PER-TRANSACTION BASIS FOR RESALE TO THE NAMED END USER.

2. Purchase Orders. Reseller will purchase from WinMagic the Products and/or Services set forth in the Quote by submitting a written purchase order to WinMagic. All Orders are subject to acceptance by WinMagic. The terms and conditions of this Agreement will apply to the Order and supersede any different or additional terms on Reseller's Order. The Order is issued by Reseller to WinMagic solely for the purpose of requesting delivery dates and quantities, specifying the ship-to and bill-to addresses, and specifying the applicable price for each Product and Service; all other terms on such Order shall have no force or effect. The Order is subject to acceptance by WinMagic (which acceptance may be evidenced by WinMagic's shipment of the Order). The Order must be accompanied by sell through information, as requested by WinMagic, which will identify the End User to which the Reseller has sold such Products. Reseller acknowledges and agrees that such Products are purchased for immediate sell through to the End User.

3. Price and Payment. Prices payable by Reseller for Products and Services are those set forth in the accepted Order. Reseller will be responsible for all taxes, withholding, duties and other governmental assessments (other than taxes based upon WinMagic's net income), including, without limitation, sales or use tax, VAT or similar taxes, provided that WinMagic will not invoice Reseller for taxes to the extent Reseller has provided an appropriate resale certificate, exemption documentation or valid VAT identification number that exempts Reseller from paying and/or WinMagic from collecting such tax. If Reseller is required to withhold any taxes on payments to WinMagic, then payments to WinMagic must be increased, so that the net payment to WinMagic (after withholding tax) would be the same as if no withholding taxes were applicable. Reseller shall pay all amounts invoiced within 30 days from invoice date, unless WinMagic at any time determines that Reseller's credit is not satisfactory, in which case payment terms shall be C.O.D. WinMagic shall not invoice for Product or Support before the actual date of shipment of the applicable Products. All sums not paid when due will accrue interest daily at the lesser of an annual rate of eighteen percent (18%) or the highest rate permissible by law on the unpaid balance until paid in full.

4. Delivery. WinMagic shall mark all Products for shipment to the address set forth on the Order. Fulfillment of Software shall be made by WinMagic in electronic form only via download link by delivery of activation keys necessary to activate the Software. Reseller may not decrease, reschedule or cancel any Order.

5. Restrictions. Reseller shall not, directly or through others: (1) disassemble, decompile or otherwise reverse engineer the Products, or otherwise attempt to learn the source code, structure, algorithms or ideas underlying the Products, (2) rent, lease or otherwise provide temporary access to a Product or use the Product in a service bureau or for the benefit of any third party, (3) copy or modify the Products, (4) remove any names, designations or notices from any Product, (5) provide the Software to any end-user, whether civil, military or otherwise, directly or indirectly involved in the research, development or production of chemical, biological or nuclear weapons, or any missile programs, (6) make available to any end-user: technical information relating to the design, development or implementation of the cryptographic components, modules, interfaces, or architecture of the cryptographic goods; and source code or pseudo-code, in any form, of any of the cryptographic components, modules, or interfaces of the cryptographic goods, (7) (re-)export the Software to the following countries without an individual export license, to be coordinated and applied for by WinMagic: Any country on Canada's Area Control List; any country subject to Canadian Economic Sanctions; Afghanistan, Belarus, Cote d'Ivoire, Cuba, Democratic Republic of the Congo, Democratic People's Republic of Korea [North Korea], Eritrea, Guinea, Iran, Iraq, Lebanon, Liberia, Libya, Myanmar [Burma], Pakistan, Sierra Leone, Somalia, Syria, Sudan and Zimbabwe, and (8) publish or provide to any third-party results of any benchmark or comparison tests of the Products. Reseller will not use, register or take other action with respect to any name, logo, trademark, service mark or other identifier used anywhere in the world by WinMagic, or confusingly similar to one used by WinMagic. Reseller shall promptly report to WinMagic any suspected infringing or unauthorized use or reproduction of the Products or trademarks.

6. Audit. WinMagic may, upon at least two (2) weeks advance written notice, have an accountant or auditor selected by mutual agreement of WinMagic and Reseller (such agreement not to be unreasonably withheld) inspect Reseller's books and records relating to this Agreement and Reseller's compliance with its terms and conditions. Such accountant or auditor must first execute a confidentiality agreement as reasonably required by Reseller to protect Reseller's confidential information. Any such audit will be conducted during Reseller's normal business hours and in a manner that does not interfere with Reseller's normal business operations.

7. Support. WinMagic's obligation under any Support plan with respect to any Product is subject to at least an annual advance payment of WinMagic's applicable Support fee. WinMagic may elect to cancel a Support plan for which full payment has not been received. Reseller acknowledges that WinMagic has the right to verify an End User's entitlement to receipt of Support, and that End User is entitled to receive Support only on Product for which WinMagic has been paid the applicable Support fees. With respect to any particular End User, the purchase or renewal of Support for any Product purchased by such customer requires the purchase or renewal of Support for all Products purchased by such End User. WinMagic retains ownership of any intellectual property resulting from Services. If, with respect to a particular Product, there is a lapse in Support, any subsequent purchase of Support will be deemed purchased retroactive to the later of (x) the date on which any prior Support concluded or (y) the date on which the particular Product was purchased in addition to a twenty percent (20%) charge on the lapsed support period, which amounts will be based on the level of Support that Reseller requests to purchase for such Products on a go-forward basis. Reseller may renew Support by submitting an Order for renewal of that Support, which shall renew on an annual basis at the rate specified in the initial Order. Any Orders for renewals of Support

accepted by WinMagic after termination of this Agreement shall be governed by the terms of this Agreement unless a separate mutually executed agreement between the parties covers such Support services. Pre-purchased Support may not be cancelled at any time. Unless otherwise agreed in writing by the parties on the Order, Reseller must provide first level support to the end user. First level support is defined as taking all calls from end users and answering all questions for which answers exist in documentation available to Reseller, including but not limited to: manuals, on-line knowledge base, and WinMagic website.

8. Warranty. Products are provided with the limited warranty as set forth in the EULA. Products obtained from WinMagic that do not comply with the warranty and are returned by Reseller to WinMagic during the warranty period (and for which a WinMagic Returned Materials Authorization has been issued) will be repaired or replaced at WinMagic's option, provided that Reseller bears the cost of return. If WinMagic cannot, or determines that it is not practical to, repair or replace the returned Product, the price paid to WinMagic therefore will be credited to Reseller or the End User making the warranty claim. WinMagic will not be responsible for any difference between the amount paid by Reseller to WinMagic for the returned Product and the amount paid by a customer for such returned Product. WINMAGIC MAKES NO OTHER WARRANTIES WITH RESPECT TO THE PRODUCTS OR ANY SERVICES AND DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WINMAGIC ALSO MAKES NO WARRANTY REGARDING NONINTERRUPTION OF USE OR FREEDOM FROM ERROR. The above warranty does not extend to any Product that is modified or altered, is not maintained to WinMagic's maintenance recommendations, is treated with abuse, negligence or other improper treatment (including, without limitation, use outside the recommended environment). Reseller's sole remedy with respect to any nonconformity, deficiency, warranty or defect with respect to the Products and/or Services is as stated above. Reseller will not distribute the Products under terms that are less protective of WinMagic, its licensors and the Products than the terms in this Agreement and the EULA.

9. Indemnification. Reseller will indemnify and hold harmless WinMagic and its officers, directors, employees, agents and representatives from any and all claims, losses, damages, liens, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred or asserted by any End User or otherwise arising out of or in connection with (a) any misrepresentation, negligent or tortious act or omission or reach of or default under this Agreement by Reseller or by anyone else acting for or on behalf of Reseller in connection with the promotion, distribution or other dealings with respect to the Product, and (b) any representations and warranties made by Reseller that are inconsistent with or in addition to the representations or warranties made in WinMagic's EULA.

10. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT OR OTHERWISE, WINMAGIC WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS THAT ARE IN EXCESS OF THE AGGREGATE AMOUNTS PAID TO WINMAGIC WITH RESPECT TO THE APPLICABLE PRODUCTS AND SERVICES DURING THE TWELVE-MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE OR (II) ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR LOST DATA OR (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES OR (IV) LOSS OR CORRUPTION OF DATA OR INTERRUPTION OF USE. WINMAGIC SHALL HAVE NO LIABILITY FOR ANY FAILURE OR DELAY DUE TO MATTERS BEYOND ITS REASONABLE CONTROL OR FOR ANY ALLOCATION OF PRODUCTS BETWEEN ITS CUSTOMERS OR PARTNERS IN THE EVENT OF A SHORTAGE. THIS SECTION DOES NOT LIMIT LIABILITY FOR DEATH OR BODILY INJURY OF A PERSON.

11. Confidential Information. All non-public information concerning the Products, inventions (whether patentable or not), algorithms, designs, knowhow, ideas, product development plans, information on WinMagic's Partner Portal website, and all WinMagic customer, business, technical, training and financial information are the confidential property of WinMagic and its suppliers ("Confidential Information"). Except as expressly and unambiguously allowed herein, Reseller will hold in confidence, not reverse engineer and not use or disclose any Confidential Information to any third parties. Because of the unique and proprietary nature of the Confidential Information, it is understood and agreed that WinMagic's remedies at law for a breach by Reseller of its obligations under this Section will be inadequate and that WinMagic will be entitled to equitable relief, including, without limitation, provisional and permanent injunctive relief, in addition to any other remedies. Reseller's obligations set forth in this Section shall survive any termination of this Agreement. Reseller shall not make any public announcements, advertisements, or press releases without the prior written approval of WinMagic.

12. Compliance with Laws. In no event shall WinMagic be obligated under this Agreement to take any action (including the shipping of any product or provision of any service) or omit to take any action that WinMagic believes in good faith would cause it to be in violation of any Canadian, U.S. or foreign laws, ordinances, codes or regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act ("FCPA"). In connection with the resale or distribution of WinMagic Products or Services, or otherwise in carrying out its obligations under this Agreement, Reseller represents and warrants the following:

- (a) Reseller will conduct its business operations in accordance with all applicable Canadian, U.S. and foreign laws, ordinances, codes and regulations, including, without limitation, the FCPA and other applicable anti-bribery laws and any export/import laws and regulations ("Applicable Laws"). Reseller will indemnify and hold harmless WinMagic for any violation by Reseller or its officers, directors, employees, agents or representatives of any Applicable Laws;
- (b) Reseller shall comply with all applicable export laws, restrictions and regulations of any Canadian, United States or other foreign agency or authority and agrees not to import, export or re-export, or allow the import, export or re-export of, any product, technology or information it obtains or learns pursuant to this Agreement (or any direct product thereof) in violation of any such laws, restrictions or regulations;
- (c) Reseller will not (i) attempt to, directly or indirectly, improperly influence the sale or purchase of products by payments or other actions contrary to law or regulation, or (ii) take any action or permit or authorize any action that would violate or cause WinMagic to violate the FCPA;
- (d) Reseller will keep its books, records and accounts in reasonable detail to accurately and fairly reflect transactions, payments and dispositions of assets effected in connection with performance of this Agreement; and
- (e) Reseller will not assign, transfer or subcontract to any third party any of its rights or obligations, or any of the services to be rendered by Reseller, under this Agreement without the prior written consent of WinMagic. In addition, upon WinMagic's request, Reseller will require that any of its subcontractors, consultants, agents or representatives agree in writing to comply with substantially similar FCPA representations as those contained in this section. Notwithstanding any other provision in this Agreement, WinMagic may terminate this Agreement immediately upon written notice if Reseller breaches any of the representations and warranties set forth in this section.

13. General. It is expressly understood that no title to, nor ownership of, the Software, or any part of, is transferred to reseller or any end user. WinMagic may subcontract its obligations under this Agreement, or delegate any duties, provided that WinMagic shall remain responsible for such subcontractors' obligations under this Agreement. Reseller may not assign, transfer or sublicense any obligation or benefit under this Agreement and any attempt to do so shall be void. WinMagic may assign this Agreement in whole or in part. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights, and any waivers shall be in writing and signed by each party. Reseller has not relied (and will not rely) on the availability of any future version of a product or any future product in executing this Agreement or making any purchases under this Agreement. 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 shall otherwise remain in full force and effect and enforceable. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover

costs and attorneys fees. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, Canada (without regard to the conflicts of laws provisions thereof or the UN Convention on the International Sale of Goods). Unless otherwise elected by WinMagic in writing, the sole jurisdiction and venue for any court claims shall be the provincial courts located in Ontario, and both parties consent to the jurisdiction of such courts. This Agreement constitutes the sole and exclusive understanding between WinMagic and Reseller concerning the specific Products and Services provided to the End User. This Agreement supersedes all prior discussions, understandings and representations between the parties concerning the Products, Services, and End User, and all past dealings or industry custom. The parties expressly understand and agree that the parties are non-exclusive, independent contractors. Each party is solely responsible for all of its employees and agents and expenses arising in connection with this Agreement. Nothing in this Agreement shall be construed as limiting in any manner WinMagic's marketing or distribution activities or its appointment of other dealers, distributors, resellers, licensees or agents.

COMPANY: _____

BY: _____

NAME: _____

TITLE: _____