Reseller Agreement

AGREEMENT (the "Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 2017 (the “Effective Date”) by and between:

**CyberArk Software Inc.**, a Delaware corporation, having a place of business at 60 Wells Avenue, Newton, Massachusetts 02459 ("**CyberArk**"), and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_ corporation, having a place of business at

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Tel: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("**Reseller**"),

each a “**Party**” and both the "**Parties**".

NOW, THEREFORE, in consideration of their mutual promises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**1. Appointment of Reseller**

1.1 CyberArk hereby appoints Reseller as a non-exclusive Reseller for the Products listed in **Schedule A** to this Agreement, in the Territory defined in **Schedule A** to this Agreement, and Reseller hereby accepts such appointment.

1.2 Reseller will order from CyberArk, and CyberArk will supply and sell the Products to Reseller, at the prices and on the terms and conditions set forth in this Agreement.

1.3 Reseller may sell the Products directly to final customers, consumers or end users in the Territory (collectively “End Users”).

1.4 Reseller shall not directly or indirectly (i) sell, distribute or use; or solicit the sale, distribution or use; or cause the sale, distribution or use of the Products outside the Territory; or (ii) promote, advertise, market, sublicense or provide services for Products outside the Territory, except with CyberArk’s prior written consent.

1.5 Reseller may resell Products to sub-resellers, agents, resellers, wholesalers, retailers or other third parties within the Territory (collectively “Sub-Resellers”). The Sub-Resellers shall be bound by the terms and conditions of this Agreement and Reseller shall be solely responsible and liable for their actions.

1.6 CyberArk may (i) market, distribute, sell and/or license the Products, directly or through others, anywhere in the world, including throughout the Territory; and (ii) designate, in its sole discretion and at any time, any entity within the Territory as a “Strategic Account” and require Reseller not to market the Products to such entity, provided Reseller did not already establish a marketing relationship with such entity.

**2. The Marketing Program, Expenses, Advertising and Training**

2.1 Reseller shall comply with all of the requirements included in the agreed upon “Marketing Program” in **Schedule B** to this Agreement. The Marketing Program may be amended by the Parties from time to time.

2.2 Reseller shall bear all of its costs and expenses related to its performance of its obligations under this Agreement, including all costs related to advertising and sales promotion of the Products in the Territory.

2.3 Reseller shall identify itself as an authorized reseller of CyberArk Products in connection with all its activities related to its marketing and distribution of the Products, including adding information and a link to CyberArk on its website. CyberArk must approve all advertising copy, ideas, campaigns and programs related to CyberArk or the Products prior to dissemination to the public. Reseller shall pay CyberArk for all marketing materials that it orders from CyberArk.

**3. Undertakings of Reseller**

At its own expense and without cost or liability to CyberArk, Reseller agrees to:

3.1 use its best efforts to actively market the Products in the Territory and to vigorously promote their use, purchase and/or license within the Territory, in accordance with CyberArk’s instructions;

3.2 provide required installation, service, maintenance, training and support for Products used in the Territory, in accordance with **Schedule C** to this Agreement;

3.3 maintain high quality marketing and sales personnel and other necessary resources to provide effective and regular contact with customers and potential customers in the Territory for the Products (including, but not limited to purchasing and maintaining for demonstration or training purposes such quantities of the Products as CyberArk may from time to time reasonably require);

3.4 promptly and thoroughly follow up on any leads for potential customers given it by CyberArk;

3.5 maintain during the Term of this Agreement adequate financing, personnel and other resources to perform its obligations under this Agreement;

3.6 perform its obligations under this Agreement in compliance with all CyberArk policies that have been provided to Reseller, and in compliance with all applicable laws, regulations, ordinances and standards; to obtain all necessary import licenses and other import authorizations for the Products; to clear the Products and related materials through customs; and to pay all duties, taxes, fees, levies, storage charges and other charges related to the customs clearance of the Products;

3.7 comply at all times with all applicable laws related to bribery, corruption and related matters, including without limitation the laws of the United States and the United Kingdom. Reseller shall not offer, promise, pay, give or authorize any financial or other advantage on behalf of CyberArk to any person in order to induce that person improperly in connection with obtaining business or a business advantage for CyberArk;

3.8 comply with the exportation of the Products and Documentation is subject to compliance with the U.S. Export Administration Act, as amended, and the rules and regulations promulgated from time to time there under, laws of the State of Israel, and the laws of any country or organization of nations within whose jurisdiction Reseller or End User operates or does business. Reseller, severally and jointly, agrees not to knowingly export or re-export any Product or any part thereof directly or indirectly, without first obtaining required permission to do so from the United States Office of Export Administration and other appropriate governmental agencies; and

3.9 indemnify, protect, defend and hold harmless CyberArk and its affiliates, shareholders, directors, officers, employees and agents from and against all claims, obligations, liabilities, damages, losses, reasonable costs and expenses (including without limitation reasonable attorneys’ fees and expenses) arising from, resulting from or relating to any breach of any of Reseller’s obligations or warranties under this Agreement.

**4. Reseller Quota**

4.1 During the Term of this Agreement, Reseller will use its best efforts to purchase from CyberArk at least the minimum number of Products for each period set forth in Schedule A (the “Quotas”).

4.2 If Reseller fails to meet any of the Quotas, CyberArk may terminate this Agreement pursuant to the provisions of Section 14.

**5. Terms of License**

5.1 Notwithstanding any language in this Agreement that could be interpreted otherwise, any part of a Product which is software ("Software") is supplied by CyberArk only under license for use by the End User or other licensee of the Software.

5.2 Reseller is expressly prohibited from duplicating any Software, except that Reseller may make one archival copy of Software which is used only internally by Reseller provided it reproduces and includes on such copy any CyberArk copyright notice(s). Reseller may only use Software as expressly permitted in the applicable End User Software License Agreement (“EULA”) which is embedded in the Software. Reseller agrees it will not infringe CyberArk's copyright or other proprietary rights in the Software. To the maximum extent permitted by law, Reseller is prohibited from creating derivative works from, modifying, leasing, assigning or disassembling, decompiling, or otherwise "reverse engineering" any part of the Software for any purpose. Reseller is licensed only to use the Software internally for training and demonstrative purposes and any distribution, dissemination or disclosure of such Software to any third party is prohibited except for distribution of the Products as set forth in this Agreement.

5.3 Reseller will provide to End Users such disclaimers of CyberArk's warranty obligations and damages payable by CyberArk as CyberArk may at any time request, provided that such disclaimers are provided by CyberArk and attached to the Products. Reseller will be solely and exclusively responsible for all warranties or guarantees of any kind whatsoever made to End Users in relation to the Products, which are not in accordance with the warranties of CyberArk. Nothing in this Agreement is intended to or shall effect or restrict the price Reseller charges to the End Users for any of the Products. The Software is supplied only under the license contained in the applicable EULA, no copy of the Software is intended to be, or shall be, sold to Reseller or End User, and any such user obtains no rights in or to the Software other than the limited right to use it granted by in the applicable EULA.

5.4 During the Term of this Agreement Reseller is authorized to offer directly to End Users in the Territory, but at exclusively its own cost, risk and obligation, professional services which are ancillary to the use of the Products, including, but not limited to, assistance with Product installation, maintenance, technical training and consulting on the use of the Products. The terms, conditions and charges for such professional services will be established by Reseller and Reseller will inform End Users that such services are offered on Reseller's own account, and that Reseller is solely liable for them.

**6. Purchase of Products by Reseller**

6.1 **Prices.** Reseller will pay CyberArk for each Product ordered by Reseller the price as listed in the then current CyberArk International Price List, less its Reseller discount as set forth in Schedule A. Prices are exclusive of all sales, use, excise and other taxes, customs, insurance, freight and other charges of a similar nature whether currently imposed or applicable in the future. Reseller will be liable for and responsible for the reporting and payment of all such taxes and other charges. CyberArk may, in its sole discretion pay any such tax or other charge it believes is due and, in such case, Reseller shall promptly reimburse CyberArk for such tax or other charge.

6.2 **Orders.** In order to initiate an order, Reseller must send a written request to CyberArk specifying the specific quantity and type of Product ordered and the desired delivery date(s) (an "Order"). All Orders must fully comply with all of the terms and conditions of this Agreement, and no order will vary or amend the terms and conditions of this Agreement. If CyberArk accepts an Order on any other form, it is done as an accommodation only and such acceptance is expressly conditioned on Reseller's agreement made hereby that any terms and conditions contained in that form which vary, amend or supplement the terms and conditions of this Agreement shall be null and void and of no effect. In any event, if CyberArk does not notify Reseller otherwise within seven (7) days after the date of an Order, the Order shall be deemed accepted by CyberArk.

6.3 **Delivery.** Software Products (and any accompanying Documentation) will be delivered electronically, and delivery will occur when the Product is made available for download. Physical deliveries (as applicable) of Software and Documentation will be on CD-ROM, Ex Works CyberArk’s facility (Incoterms 2010), and CyberArk fulfills its shipping and delivery obligations by depositing the CD-ROM with CyberArk’s overnight carrier at CyberArk’s expense. For non-Software Products, shipping will be Ex Works CyberArk’s facility (Incoterms 2010).

6.4 **Payments.** Any agreed prepaid shipping, insurance, taxes, duties and other similar charges for any Products delivered simultaneously with the execution of this Agreement shall be paid on the date hereof. Any similar payments, which are to be prepaid, shall be due and payable prior to shipment by CyberArk to Reseller of the Product on which they are based. All other payments shall be due and payable thirty (30) days after the date of the mailing of the invoice therefore from CyberArk to Reseller. All payments shall be in U.S. Dollars and in the form required by CyberArk. In the event that Reseller breaches its payment obligations and the breach is not cured, CyberArk shall have the right to require Reseller to provide any form of assurance of payment (including but not limited to a letter of credit or permitting CyberArk to direct bill the customer) or to exercise its rights to terminate this Agreement under Section 14.

6.5 **Records.** Reseller will keep such records as will enable CyberArk to accurately determine the payments to be made by Reseller, or other obligations of Reseller hereunder. Reseller will retain such records and make them available to CyberArk and/or independent auditors selected by CyberArk for examination, at the request and expense of CyberArk during reasonable business hours at the principal offices of Reseller, for a period of at least three (3) years after the date of the transactions to which the records relate.

**7. Reports and Planning**

7.1 Reseller will submit to CyberArk quarterly written pipeline reports in the format designated by CyberArk, setting forth (a) estimated quantity requirements for the Products for the next three (3) months and (b) such other reasonable information as CyberArk shall require.

7.2 If Reseller is at Gold level or Platinum level, as specified in Schedule A, Reseller will submit to CyberArk at least sixty (60) days prior to the end of any calendar year during the Term hereof a written marketing plan describing in reasonable detail Reseller's plans for the marketing, promotion and service of the Products in the Territory for the next year and such other information as CyberArk may reasonably require.

7.3 If Reseller is at Platinum level, as specified in Schedule A, Reseller will also submit to CyberArk at least thirty (30) days prior to the end of any quarter during the Term hereof a written marketing plan describing in reasonable detail Reseller's plans for the marketing, promotion and service of the Products in the Territory for the next quarter.

**8. Confidentiality**

8.1 Reseller acknowledges that CyberArk may disclose to Reseller certain information, data, software, and other material containing valuable trade secrets and other proprietary information of CyberArk or that, because of Reseller's access thereto or its activities contemplated by this Agreement, Reseller itself may develop sensitive information relating to the Products or the market for the Products (collectively, the "CyberArk Confidential Material").

8.2 Reseller agrees that it will hold the CyberArk Confidential Material in strict confidence and not disclose, reproduce or use it for any purpose except for performing its obligations under this Agreement. Reseller further acknowledges that unauthorized use or disclosure of such CyberArk Confidential Material could irreparably injure CyberArk, which injury cannot be remedied solely by the payment of money damages, and agrees that it will hold in strict confidence and not disclose, reproduce or use CyberArk Confidential Material for any purpose other than performing its obligations under this Agreement. CyberArk Confidential Material does not include information which: (i) is already in the public domain at the time of disclosure or development; or (ii) after disclosure or development becomes a part of the public domain by publication through action other than by Reseller in violation of this Agreement or any other confidentiality agreement between Reseller and CyberArk; or (iii) is agreed to by CyberArk in writing in advance of such publication, reproduction or use.

8.3 Reseller further agrees not to disclose CyberArk Confidential Material to its employees, agents or contractors except to those who are required to have it in connection with the performance of this Agreement. Reseller will ensure that its employees, agents and contractors have executed agreements sufficient to protect the confidentiality of CyberArk Confidential Material, and will be responsible for unauthorized use or disclosure by its employees, agents or contractors.

8.4 The provisions of this Agreement will not limit any rights which CyberArk may have under any confidentiality agreement, whether in force before or after this Agreement.

8.5 All of the provisions of this Section 8 will survive any termination of this Agreement.

**9. Term**

This Agreement will begin on the Effective Date, and will continue in full force and effect for one yearand then be automatically renewed for additional successive 12 month periods (the “Term”), unless terminated earlier in accordance with the provisions of Section 14 below.

**10. Trademarks, Packaging and Advertising**

10.1 All intellectual property rights, title and interest in and to the Products shall remain with CyberArk. All trademarks and logos which appear on or in connection with the Products are, unless stated otherwise, trademarks of CyberArk. Licensee will not remove or destroy any copyright, trademark, logos or other proprietary marking or legends placed on or contained in the Products.

10.2 CyberArk hereby grants to Reseller a limited, non‑transferable, non‑exclusive and personal license (without the right to sublicense) during the Term of this Agreement to use in the Territory the trademarks, service marks and trade names used in connection with the, but only in connection with Reseller's marketing, advertising and distribution of the Products under this Agreement. Upon the termination of this Agreement, Reseller will have no further rights to use CyberArk's trademarks, service marks or trade names. Reseller will permit CyberArk to make reasonable inspections of Reseller's facilities and the Products in its possession, custody or control for the purpose of quality control, but CyberArk will not be liable to Reseller, the End Users or others for its failure to do so, or for any defects which it discovers or could or would have discovered by so doing.

10.3 Reseller will not engage in deceptive, misleading or unethical practices that are or might be detrimental to CyberArk or any Product, make false or misleading representations with regard to CyberArk or any Product, or make any representation, warranty or guarantee regarding the specifications, features or capabilities of any Product that are inconsistent with the representations made by CyberArk.

**11. Changes in Products, Discontinued and New Products**

During the Term of this Agreement, CyberArk may amend or change any of the Products, and may discontinue or add products to those currently marketed, and may launch new products. The Parties may agree to add such new products to the list of Products, by a written mutual amendment to this Agreement.

**12. Infringement and Unauthorized Use**

12.1 Provided that (i) Reseller is not in breach of this Agreement, CyberArk will defend, indemnify, and hold Reseller harmless against any loss, liability, damages, cost or expense arising from or relating to any third party claim that Reseller’s use of any Product as authorized by this Agreement infringes upon the intellectual property rights of any third party. Reseller must notify CyberArk of any such claim in writing within ten (10) days of the date on which Reseller learns of it, and Reseller must fully cooperate with CyberArk in the settlement or defense of such Claim, CyberArk shall defend, indemnify and keep Reseller harmless against any proceedings relating to such Claim and the defense of any litigation resulting solely therefrom and shall be responsible for the costs thereof.

12.2 If, as a final result of any litigation of which CyberArk is obligated to take control, Reseller’s use of any Product is prevented by an injunction, CyberArk's sole obligation shall be, at its option, either to (i) replace such parts of such Product as have been enjoined, or (ii) procure a license for Reseller to use same, or (iii) reimburse to Reseller such part of the price previously paid pursuant to this Agreement to CyberArk in consideration for the Product which has been enjoined.

12.3 CyberArk assumes no obligation or liability for any claim or action arising from (i) the use of a Product by Reseller or any End User in combination with any other product, (ii) CyberArk's compliance with the special designs, specifications, or instructions of Reseller or any End User, (iii) any actions or claims of trademark infringement involving any marking or branding not applied or approved in advance by CyberArk, (iv) any modification of a Product against CyberArk’s specific instructions (unless made by CyberArk).

12.4 This Section 12 states the entire liability and obligation of CyberArk and the exclusive remedy of Reseller with respect to any actions or claims of alleged infringement relating to or arising out of the subject matter of this Agreement.

**13. Limited Warranty**

13.1 CyberArk warrants that it has the legal right to enter into this Agreement and to perform its obligations under this Agreement, and that this Agreement has been duly and validly authorized and executed by it and is its valid and binding obligation.

13.2 CyberArk warrants that it knows of no claim by any third party that any Product infringes any patent, copyright or trademark of such third party.

13.3 CYBERARK WARRANTS THAT THE PRODUCTS SUBSTANTIALLY COMPLY WITH THEIR ACCOMPANYING DOCUMENTATION. EXCEPT THE AFOREMENTIONED, CYBERARK MAKES NO WARRANTY OR GUARANTEE OF ANY KIND WITH RESPECT TO THE PRODUCTS (INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) AND ALL PRODUCTS ARE SUPPLIED AS IS. Nevertheless, CyberArk agrees, at CyberArk's option, to replace or upgrade, or credit Reseller with the price paid for, any Product or component which substantially fails to comply with its accompanying Documentation, within ninety (90) days after the Product in question was first licensed to the ultimate End User, provided (i) Reseller has promptly in writing reported same to CyberArk with a description of the deficiency, (ii) CyberArk has, upon inspection, found such Product does not substantially comply with its accompanying Documentation and (iii) Reseller previously credited the ultimate End User or Sub-Reseller because of such Product. THE RIGHTS IN THIS SECTION EXTEND ONLY TO RESELLER AND DO NOT COVER ANY PRODUCT WHICH HAS BEEN SUBJECTED TO UNUSUAL PHYSICAL OR ELECTRICAL STRESS, OR ON WHICH THE ORIGINAL IDENTIFICATION MARKS HAVE BEEN REMOVED OR ALTERED, OR WHICH IS DAMAGED DUE TO ACCIDENT, MISUSE, NEGLECT, REPAIR, IMPROPER INSTALLATION OR TESTING OR UNAUTHORIZED MODIFICATION.

13.4 IN NO EVENT WILL CYBERARK BE LIABLE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST DATA, LOST PROFITS OR BUSINESS INTERRUPTION), EVEN IF CYBERARK HAS BEEN INFORMED, IS AWARE, OR SHOULD BE OR HAVE BEEN AWARE, OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT, EXCEPT FOR POSSIBLE INDEMNIFICATION AS SET FORTH IN SECTION 12.1 ABOVE, WILL CYBERARK BE LIABLE IN EXCESS OF THE PURCHASE PRICE RECEIVED BY CYBERARK FROM RESELLER FOR THE PRODUCT IN QUESTION. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, THE ABOVE LIMITATIONS WILL NOT APPLY IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY CYBERARK.

**14. Termination**

14.1 The Parties may by written mutual consent terminate this Agreement at any time.

14.2 Either Party may terminate this Agreement without cause by written notice to the other Party, which termination will take effect thirty (30) days after the notice is sent.

14.3 CyberArk may immediately terminate this Agreement if: (a) Reseller liquidates, dissolves, or is adjudicated insolvent, or files a petition in bankruptcy or for reorganization; or (b) there is any change in Reseller's control or executive management or any transfer of all or substantially all of Reseller's assets; or (c) Reseller or any of Reseller's owners or executives is indicted of any crime or violation of law involving moral turpitude or adversely reflecting upon the ability of Reseller to continue to effectively market the Products; or (d) CyberArk learns of any information which, in CyberArk's reasonable judgment, indicates that Reseller is unwilling or unable to comply with its obligations under this Agreement; or (e) Reseller fails to meet any quarterly or annual Quota.

14.4 Either Party may terminate this Agreement by written notice to the other Party, if the other Party breaches any of its obligations under this Agreement and such breach continues for at least thirty (30) days after the notice is sent.

14.5 Notwithstanding any termination or expiration of this Agreement, Reseller shall remain liable to CyberArk for payments accruing with respect to Products previously delivered to Reseller.

14.6 Termination of this Agreement will not release Reseller from any of its obligations or liabilities, and Reseller will remain liable to CyberArk for payments accruing with respect to Products previously delivered to Reseller.

14.7 Upon termination of this Agreement and except as explicitly permitted by this Section 14, Reseller will, upon CyberArk's request, immediately deliver to CyberArk all Products and any and all copies of the Software in whatever form in the possession, custody or control of Reseller or its Sub-Resellers. CyberArk will reimburse Reseller for the purchase price actually received by CyberArk for all Products returned by Reseller to CyberArk pursuant to this sub-section and will pay the costs of return shipment and insurance (but not the original costs thereof or any related charges). If CyberArk does not request that Reseller return the Products, Reseller may continue to market such Products as it then has in its possession and for which it has previously paid CyberArk, but all such activities and transactions will be in full compliance with all of the applicable terms of this Agreement.

14.7 Upon termination of this Agreement, but except as provided in the previous sub-section, Reseller will cease all marketing and other activities under this Agreement. However, notwithstanding any such termination or expiration and cessation, and provided that Reseller is not in default of this Agreement, Reseller may continue to provide service with respect to the Products delivered prior to termination or expiration until CyberArk has appointed a new Reseller for the Territory or until CyberArk has notified Reseller of CyberArk's intention to provide such service itself. Notwithstanding such termination or expiration, all applicable provisions of the Agreement will apply to such transactions by Reseller. It is further provided that the licenses granted to the End Users will continue unexpired (subject to the End Users’ compliance with the terms and conditions of the license granted to them as specifically set forth herein).

14.8 Upon termination of this Agreement, CyberArk will not be liable to Reseller for any claim, suit, demand or cause of action for any indemnification, compensation, or any other payment for any reason, including consequential or incidental damages of any kind, alleged lost profits or commissions, lost income, anticipated sales, damage to reputation, expenditures, investments, reorganizations costs, costs of arranging for alternative lines of business, unjust enrichment, commitments, built-up goodwill or on account of any other reason or cause whatsoever, arising out of or in relation to the termination of this Agreement.

**15. Miscellaneous**

15.1 Reseller may not assign this Agreement without the prior written consent of CyberArk.

15.2 The headings and captions used in this Agreement are for convenience only and are not to be used in the interpretation of this Agreement.

15.3 The failure of either Party to require performance of any provision of this Agreement will not affect its right to subsequently require the performance of such or any other provision of this Agreement. The waiver of either Party of a breach of any provision will not be taken or held to be a waiver of any subsequent breach of that provision or any subsequent breach of any other provision of this Agreement.

15.4 The relationship of the Parties is that of independent contractors. This Agreement does not create an agency, partnership or similar relationship between the Parties and neither Party may create any obligations or responsibilities on behalf of or in the name of the other Party. Reseller’s employees will not be considered employees of CyberArk or be eligible or entitled to any compensation, benefits, perquisites or privileges given or extended to CyberArk’s employees,

15.5 If any provision of this Agreement is determined to be invalid, illegal or unenforceable, all remaining provisions of this Agreement will nevertheless remain in full force and effect, and no provision of this Agreement will be deemed to be dependent upon any provision so determined to be invalid, illegal or unenforceable unless otherwise expressly provided for herein.

15.6 This Agreement is to be governed by, construed, interpreted and enforced in accordance with the laws of Massachusetts (without giving reference to choice‑of‑law provisions). The United Nations Convention on Contracts for the International Sale of Goods will not apply to any of the transactions contemplated by this Agreement.

15.7 If a dispute arises out of or relates to this Agreement or a breach thereof, and if said dispute cannot be settled through direct discussions, said dispute will be settled exclusively by the competent courts of Boston, Massachusetts.

15.8 This Agreement replaces any previous reseller agreement between the Parties. This Agreement including its Schedules is the entire and exclusive agreement of the Parties and supersedes any written or oral communications and agreements between the Parties prior to the Effective Date and relating to its subject matter. This Agreement may only be modified by a written agreement signed by the duly authorized representatives of the Parties.

15.9 All notices under this Agreement must be in writing and delivered by personal service, confirmed facsimile, express courier, or certified mail, return receipt requested, to the Parties’ addresses set forth above, or at such different address as may be given by a Party by written notice to the other Party. All notices will be deemed received and effective upon receipt if delivered personally or sent by express courier or confirmed facsimile, and three business days after mailing if sent by certified mail.

IN WITNESS WHEREOF, the Parties hereto have executed this Reseller Agreement by their duly authorized representatives as of the day and year first above written.

|  |  |
| --- | --- |
| **CyberArk Software Inc.** | **Reseller:** |
| By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Authorized Signature) | By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Authorized Signature) |
| Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**SCHEDULE A**

**This schedule is an integral part of the Reseller Agreement and by signing the Reseller Agreement both parties accept its terms.**

**“Territory”** - means [\_\_].

“**Products”** - means the CyberArk Software products, licenses, maintenance and professional services listed in the most recently published CyberArk US price list.

**TRADEMARKS, SERVICE MARKS AND TRADE NAMES -** The trademarks, service marks and trade names of CyberArk which Reseller is licensed to use in connection with its activities as contemplated by this Agreement are: **Enterprise Password Vault®, Sensitive Document Vault™, Network Vault®, Inter-Business Vault®, Privileged Session Manager®, On-Demand Privileges Manager™, Application Identity Manager™, Vaulting Technology®, CyberArk DNA™ PrivateArk®,** and **CyberArk®**.

**PARTNER PROGRAM STATUS**

In order to attain and maintain Partner Program Status, Reseller must meet the annual requirements provided to the Reseller by CyberArk in the beginning of each fiscal year.

**Partner Program Status:** Initially Reseller will have [\_\_] Status.

Partners that cannot provide 1st and 2nd line support according to the Partner Program shall mutually agree with CyberArk with respect to the provision of 1st and 2nd line direct support.

Failing to maintain the revenue and certification goals will result in a drop of Reseller’s partner level. Reseller will be notified of any partner level changes up or down by the Channel Sales Manager (CSM).

Participation in the Partner Program does not create a legal partnership between CyberArk and Reseller.

For each additional 12-month extension of the Term of this Agreement pursuant to Section 9, if any, the Parties shall agree upon the minimum Quotas which shall apply.

**SCHEDULE A - CONTINUED**

**PARTNER LEVEL DISCOUNTS**

If Reseller meets the requirements for Partner status in the table above, Reseller will be entitled to the Partner Level discounts in the table below deducted from the suggested price for any Product or accessory, as set forth in CyberArk's Price List as in effect at the time of the Order in question.  
CyberArk may, in its sole discretion, change such discounts at any time but not more than once a year.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **SILVER PARTNER STATUS** | **GOLD PARTNER STATUS** | **PLATINUM PARTNER**  **STATUS** |
| **PARTNER LEVEL DISCOUNT**  (if Partner meets Quotas above) | 15% | 20% | 25% |
| **DEAL REGISTRATION DISCOUNT**  (Partner must meet deal registration criteria on each individual deal, and each individual deal must be approved by the Channel Sales Manager (CSM) and Account Executive) | 8% | 8% | 8% |
| **VALUE ADDED DISCOUNT**  Partner must provide some or all of these pre-sales and post-sales services for the deal:  • DNA assessment and recommendation  •Technical presentations  • Demo  • Design of Solution  • Involvement in Proof of Concept  • Implementation  • RFP Design  • Ownership of the Sales Cycle  Partner will provide documentation of the delivery of these services to the CSM, and the Value Added discount must be approved by the CSM and Account Executive. | 7% | 7% | 7% |
| **MAXIMUM AVAILABLE**  **DEAL DISCOUNT (only if above Deal Registration and Technical Value Added Discounts are approved)\*** | 30% | 35% | 40% |

\* In some selling situations involving a high degree of competitive pricing pressure, or other reasons to be determined at CyberArk’s sole discretion, it may not be possible for CyberArk to provide the discounts described above, and a specific per-sale discount will instead be negotiated between the Reseller and

CyberArk Sales Management.

**SCHEDULE B**

**THE MARKETING PROGRAM**

By signing this Reseller Agreement with CyberArk, Reseller agrees to perform all of the following sales and marketing activities:

1. Include CyberArk and the Products in its existing Marcom strategy in the Territory
2. Assist CyberArk in writing customer success stories concerning joint customers in the Territory
3. Direct marketing or telemarketing to prospects in the Territory
4. Organize Road shows, seminars with prospects/customers in the Territory and present CyberArk in Security Event/tradeshow (minimum two per year), with or without financial support or field sales support from CyberArk.
5. Present CyberArk in Security Events/tradeshows (minimum two per year)
6. Display the CyberArk and its Product logos and product literature on the Reseller Web site
7. Use DNA in the partner’s security assessment services, if applicable.

**The parties will work to create specific joint annual marketing plans at the beginning of each calendar year.**

**CyberArk Marketing Participation:**

CyberArk, at its discretion, will reinvest some of the profits that originated in sales performed by Reseller back to the Territory in agreed upon joint marketing activities with Reseller such as road shows, seminars tradeshows, etc.

**SCHEDULE C**

**END USER SUPPORT SERVICES**

Maintenance and Support

1. Definitions.

1.1 “Bypass” means a temporary solution or workaround to a problem.

1.2 “Compatibility” means that the Product can be recompiled and linked properly on the new release of the End User’s operating system.

1.3 “Documentation” means all written information made generally available by CyberArk to its licensees on the use of the Products, whether in hard copy or in any electronic or other media.

1.4 “End User” means a customer of Reseller.

1.5 “Fix” means a permanent solution to a problem that may be obtained in a generally available Release.

1.6 “Maintenance Release” means any modification of a Product for which Reseller or CyberArk, in its sole discretion, changes the second number to the right of the decimal point in the Product version number, e.g., a change from version 1.00 to 1.01.

1.7 “Major Release” means a new version of a Product that contains significantly new functionality or features and is accompanied by a Major Release bulletin or other notice. Each Major Release shall be identified solely by the numeral(s) to the left of the decimal point, with the new Major Release having the larger numeral. For example, for any given Product, release 3.0 is a more current version than release 2.0.

1.8 “Patch” means a bug fix or maintenance release that CyberArk may make generally available to its licensees.

1.9 “Product” means the CyberArk products listed in Schedule A hereto. The term "Product" shall not include Source Code.

1.10 “Release” means any modification of a Product, which becomes generally available to CyberArk customers.

1.11 “Update” means any minor functionality modification or enhancement, including bug fixes that CyberArk may hereafter develop and make generally available to its licensees. Updates are represented by a number change to the right of the decimal point of the Version of the Product. The content and timing of all Updates shall be determined by CyberArk in its sole and unfettered discretion.

1.12 ”Work Around” means a temporary solution that is intended to alleviate a customer’s particular problem.

1. Support Provisions

2.1 Levels of Support. Reseller and CyberArk acknowledge that three (3) levels of support are required. Either Reseller or CyberArk may provide Level 1 and Level 2 support, and CyberArk will provide Level 3 support.

2.1.1 Level 1 Support. Level 1 (problem verification) handles calls requiring a relatively low, but broad degree of product expertise.

2.1.2 Level 2 Support. Level 2 (problem determination and temporary fix) requires both broad and in-depth product expertise. Level 2 support has full responsibility for problem trouble-shooting, and development of problem avoidance and work-arounds.

2.1.3 Level 3 Support. Level 3 requires engineering level technical expertise. The Level 3 support organization has complete control of the field release process, and is similarly responsible for providing timely product defect descriptions and resolution plans to Reseller Level 1 and Level 2 Support.

2.2 Problem Classifications, Hardware/Software.

Problem (call) severity will be determined by Reseller, based upon Reseller's customer's priority, using the following as a guideline:

“Declared Critical Problem”: A "down" situation, whereby an End User is unable to do production work, and a Work-Around either is not available or, if available, is unacceptable to Reseller and/or the End User in their reasonable determination.

“Serious Problem”: A major function/product is unusable and no Work-Around is available, but the End User is able to do limited production work.

“Moderate Problem”: There is a loss of a function or resource that does not seriously affect the End User's operations or schedules. Any problem, which was originally reported as Declared Critical or Serious, but has been temporarily solved with a Work-Around, shall be reduced in severity to Moderate, only if the End User and Reseller mutually agree.

“Minor Problem”: Means all other problems with the Product(s) other than those falling within the categories above.

2.3 Reseller Responsibilities. Reseller may elect to provide post sale technical support to End Users of those Products provided by Reseller. If Reseller provides Level 1 and Level 2 Support Services, Reseller will:

2.3.1 Provide access to telephone (1-800) and electronic communications for technical assistance and consultation via a CyberArk Vault, dial up, electronic mail or Web site to Reseller’s support center during Reseller’s normal business hours, which shall cover no less than Monday through Friday 8:00 AM to 5:00 PM (or 8:30 AM-5:30 PM), in Reseller’s local time zone.

2.3.2 Execute diagnostic routines for Level 1 and Level 2 support situations in accordance with CyberArk’s instructions as they relate to CyberArk's Products, and inform CyberArk of the results of those diagnostics.

2.3.3 Reasonably verify the existence of a Product problem and to determine the conditions under which that problem can be duplicated prior to submission to CyberArk’s 3rd level support.

2.3.4 Identify, define, and report Product problems in a manner that will allow CyberArk to verify, replicate, and correct software defects.

2.3.5 Provide direct customer contact for Level 1 and Level 2 of technical support assistance and act as the front line field support organization providing technical support directly to their End User customers.

2.3.6 Manage and control problem situations arising at End User sites.

2.3.7 Reseller will act as the front line field support organization for Level 3 Support and facilitate CyberArk's direct communication with End Users in Level 3 Support situation.

2.3.8 Reseller agrees to provide response and updates to its End Users as the primary interface to them.

2.4 CyberArk Responsibilities. CyberArk will supply post-sale technical support to Reseller for End Users of those Products provided by Reseller. CyberArk will provide Level 3 Support Services. In particular, the parties agree that CyberArk will:

2.4.1 Provide to Reseller relevant Maintenance Releases, Update Releases and Major Releases of the Product.

2.4.2 Provide access by Reseller to CyberArk service personnel for telephone technical assistance as necessary during CyberArk normal business hours via a CyberArk Vault, dial up, electronic mail or Web site.

2.4.3 Provide remedial Product software support by providing a Patch or Bypass solution to verified problems reported by Reseller pursuant to Section 2.2 of this Schedule C.

2.4.4 Provide prompt shipment of appropriate and available Fix, Patch or Bypass, and Documentation updates when available.

2.4.5 Provide Reseller with Product support services for the current version and the previous version of the Product. Additionally, the second back level will be supported by CyberArk for a period of three (3) months to allow Reseller time to install the latest Product version.

3.0 Annual Maintenance

CyberArk’s annual Support and Maintenance price in the Territory is a percentage of the actual license fees paid for the licensed CyberArk products, as set forth in the then-current price list.