# SECURONIX, INC.

# RESELLER AGREEMENT

Reseller Name: Reseller Name

Agreement No.: Agreement #

Effective Date: Click here to select date

This Reseller Agreement (“Agreement”) is entered into by and between the party identified above (“Reseller”) and Securonix, Inc. with its principal place of business at 5777 W. Century Blvd., Suite #370, Los Angeles, CA 90045 USA (“Securonix”) as of the date set forth above (“Effective Date”). Under this Agreement, Securonix appoints Reseller as an authorized reseller of the Product in the Territory, as both terms are defined in Section 1 of the attached Terms and Conditions, subject to the attached Terms and Conditions and Exhibits. This Agreement will govern Reseller’s initial purchase for resale of the Products and, unless otherwise specified by Securonix, any future orders for Securonix Products for resale by Reseller.

|  |
| --- |
| EXHIBITS:   1. Exhibit A- Price List of valid Securonix price quote 2. Exhibit B- Partner Registration Form |

EACH PARTY ACKNOWLEDGES HAVING READ THE TERMS AND CONDITIONS SET FORTH ON THIS COVR PAGE AND THE ATTACHED AGREEMENT AND EXHIBIT (S), UNDERSTANDS ALL SUCH TERMS AND CONDITIONS AND AGREES TO BE BOUND THEREBY. THIS AGREEMENT HAS BEEN EXECUTED BY AUTHORIZED PREPRESENTATIVES OF EACH PARTY.

|  |  |
| --- | --- |
| Reseller Name  By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: Name  Reseller Notice Information:  Reseller Address  Attn: Attention  Fax: Fax #  Email: Email | Securonix, Inc.  By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Name: Securonix Name  Securonix Notice Information:  Securonix, Inc.  5777 W. Century Blvd., Suite #370  Los Angeles, CA 90045 USA  Attn: Rebecca Solter  Fax: 310-641-10000  mail: [rsolter@securonix.com](mailto:rsolter@securonix.com) and Contracts@Securonix.com |
|  |  |
|  |  |

RESELLER TERMS AND CONDITIONS

1. **Definitions.** As used in this Agreement, the following terms will have the following meanings:

**Distributor**: an authorized Securonix distributor from which Reseller may acquire the Products pursuant to this Agreement.

**Documentation**: the standard written materials regarding the specifications of the Software and the Hardware provided by Securonix with the Software and the Hardware.

**Embedded Software**: the Securonix software object code form that is embedded into or incorporated within the Hardware.

**End Users**: actual customers of Reseller in the Territory.

**End User Agreement**: an enforceable written software license agreement in one of the following three formats, as determined by Securonix: (i) Securonix’s then current standard end user license agreement (“EULA”) executed by Securonix and the End User directly, the current copy of which is posted on Securonix’s website; (ii) Securonix’s then current standard shrink-wrap license agreement (“Shrink-wrap Agreement”) posted on Securonix’s website as agreed to and accepted by the End User; or (iii) Reseller’s standard software license agreement (“Flow Down Agreement”) containing the required flow down provisions provided in writing by Securonix to Reseller. Copies of the then current EULA Agreement are available from Securonix upon request.

**Hardware**: the Securonix hardware products identified in the Price List and related Documentation.

**Intellectual Property Rights**: patent rights (including patent applications and disclosures), copyrights, trademarks, trade secrets, know-how and any other intellectual property rights recognized in any country or jurisdiction in the world.

**Maintenance**: user support and maintenance, as described in Section 8.1.

**Price List**: Securonix current price list or a valid Securonix price quote as provided to Reseller by Securonix, which may be modified from time to time at Securonix’s sole discretion.

**Products**: the Securonix Software, Embedded Software, Hardware, Maintenance, Professional Services and/or Training listed on the Price List or a valid Securonix quote.

**Professional Services and Training**: professional

Services and training relating to the Software, Embedded Software and Hardware, as described in Section 8.2.

**Purchase Order**: a valid purchase order or other Reseller document issued by Reseller pursuant to both this Agreement and the applicable End User Agreement and identifies both the quantities and prices of specific Products (in accordance with the Price List or a Securonix valid price quote) that Reseller desires to resell to an End User.

**Software**: the Securonix software products in object code form identified in the Price List or a Securonix valid price quote, including any updates and/or upgrades to the Software provided to or purchased by Reseller under this Agreement. Unless otherwise noted, the term “Software” will include Documentation.

**Territory**: the geographic region set forth in section 2.2**.**

Additional terms may be defined on the preceding cover page, in the text of the terms and conditions that follow these definitions and in the Exhibits to this Agreement.

1. Licenses and Support.
   1. Reseller Appointment. Securonix hereby appoints Reseller as an authorized, non-exclusive Reseller of Products in the Territory and grants Reseller a non-exclusive, non-transferable, revocable license, without right of sublicense, to market and resell Products, as set forth in Exhibit A, directly to End Users during the Term for End User use only, subject to End User’s execution of (or, in the event of a Shrink-wrap Agreement, agreement to and acceptance of) an End User Agreement. Securonix further grants Reseller a non-transferable, non-exclusive license for the Term to offer Maintenance support for the Products purchased from Reseller by End Users and offer Professional Services and Training with respect to the Software or Hardware, in accordance with the provisions of Section 8 below.
   2. The Territory. During the Term of this Agreement, Reseller may market, sublicense and distribute the Products on a non-exclusive basis solely to Qualified Prospects (as defined below) within the [\_\_\_\_\_\_\_\_\_\_\_] (the "Territory") in accordance with the distribution license granted in Section 2.1 above. Selling outside of the Territory is not permitted unless the opportunity is registered and approved in advance by an authorized representative of Securonix. Nothing contained in this Agreement shall prohibit Securonix, its affiliates or third parties appointed by Securonix from marketing, licensing or distributing the Products in the Territory or in other territories. Reseller acknowledges that its rights hereunder are non-exclusive and Securonix may, at any time, (i) appoint other distributors and or resellers in the Territory and (ii) market, license and distribute the Products directly to others.
   3. Trademarks. Securonix hereby grants Reseller a nonexclusive, non-transferable, limited license to reproduce and distribute the applicable Securonix trademarks contained in or on the Software, Hardware, Documentation and other materials provided to Reseller pursuant to this Agreement (“**Trademarks**”) solely in connection with marketing and resell of the Products as allowed pursuant to the terms of this Agreement and distribution to prospective customers and End Users of any Securonix marketing materials provided by Securonix to Reseller for distribution purposes in accordance with Securonix’s then current Trademark use policies. All such Trademark use is subject to prior review and written approval by Securonix. Reseller will not: (i) modify or remove any Trademarks or other proprietary notices incorporated in, marked on, or affixed to the Software, Hardware, Documentation, marketing materials or other materials provided by Securonix; (ii) challenge Securonix ownership or rights to use Trademarks or adopt, register or attempt to register any Trademarks which may be similar to those used by Securonix; or (iii) use any Trademarks in any manner deemed by Securonix as damaging to its goodwill.
   4. License Restrictions. Reseller will not (and will not allow any third party to):
2. decompile, disassemble, or otherwise reverse engineer the Software or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, in which case the Software may only be reverse engineered for purposes of achieving interoperability with other software programs, provided Reseller has previously requested in writing for Securonix to provide the information necessary to achieve interoperability and Securonix has not made such information available. Securonix has the right to impose reasonable conditions and to request a reasonable fee before providing such information);
3. use the Software (or any portion thereof) for any type of production use purpose, including, but not limited to, time sharing, hosting, service provider or like purposes;
4. Remove or in any manner alter any product identification, proprietary, Trademark, copyright or other notices contained in the Software;
5. modify any part of the Software, create a derivative work of any part of the Software, or incorporate the Software into or with other software, except to the extent expressly authorized in writing by Securonix;
6. publicly disseminate performance information or analysis (including, without limitation, benchmarks and performance tests) from any source relating to the Software;
7. access any third party product as part of the Software with applications other than the Securonix Software; or
8. use or copy the Software, in whole or in part, except as expressly allowed under this Agreement.

Reseller agrees to promptly notify Securonix of any breaches of the restrictions set forth in this Section 2.3 of which Reseller becomes aware.

* 1. Embedded Software Restrictions. Reseller acknowledges and agrees that the license restrictions relating to the Software described in Section 2.3 also will apply to the Embedded Software. Reseller acknowledges and agrees that Securonix licenses and does not sell any Embedded Software. Accordingly, to the extent that any Hardware hereunder includes or contains any Embedded Software, such use of the Embedded Software shall be solely in conjunction with such Hardware (and not separately or apart from such Hardware) and in accordance with (i) the applicable Documentation, and (ii) any other restrictions set forth in the applicable Purchase Order or this
  2. Non-Exclusive. The rights granted to Reseller hereunder are non-exclusive and nothing under this Agreement will prohibit Securonix from entering into any similar type of agreement with any other party in the Territory or any region of the world.

1. Ownership.
   1. Software. Except as provided in Section 3.3, Securonix has and will retain all worldwide right, title and interest (including, without limitation, all Intellectual Property Rights, related goodwill, and confidential and proprietary information) in and to the Products and all modifications to, and derivative works based upon, the Products. All rights in and to the Software and the Embedded Software not expressly granted to Reseller in this Agreement are reserved by Securonix and its licensors.
   2. Third Party Products. Title to any third-party products included in the Products or otherwise provided to Reseller by Securonix (“Third Party Products”), and all Intellectual Property Rights in and to them, are and will remain the exclusive property of the licensor of such Third Party Products. Nothing contained in this Agreement grants or confers, or will be construed to grant or confer, any rights in or to any Third Party Products, expressly or by implication, except for the rights expressly set forth above in Section 2. Reseller will not use any Third Party Products that are included in the Products, or otherwise provided to Reseller by Securonix, separately or apart from the Products.
   3. Title to the Hardware (except to the extent that the Hardware includes any Embedded Software) and risk of loss will pass to Reseller on Securonix’s delivery of the Hardware to the carrier; provided however, that title to any Hardware shall not pass until the End User has agreed to and accepted the appropriate End User Agreement.
2. Orders, Delivery and Payment.
   1. End User Qualification and Registration. In the event that Reseller identifies a prospective End User to whom Reseller desires to sublicense the Products, Reseller shall submit a Partner Registration Form, the form of which is attached hereto as Exhibit B, to Securonix. The Partner Registration Form shall specify the respective rights and responsibilities of the parties with respect to such Qualified Prospect during the sales process. Following Reseller’s submission of a satisfactorily completed and executed Partner Registration Form to Securonix, Securonix may, in its sole and absolute discretion, designate such prospective End User as a "Qualified Prospect"; provided, that, in no event shall a potential End User be designated as a Qualified Prospect of Reseller If another Securonix representative, partner, distributor, or reseller has previously registered such potential End User as a Qualified Prospect. In the event that Securonix designates such prospective End User as a "Qualified Prospect”, Securonix will execute and return the Partner Registration Form to Reseller and the Qualified Prospect registration will be valid for a period of twelve (12) months. Securonix and Reseller agree to maintain and review a pipeline status report of registered Qualified Prospects at least monthly. A Qualified Prospect registration may be renewed or extended only by written approval by Securonix evidenced by a new or modified Partner Registration Form.
   2. Orders. Reseller will initiate orders directly with Securonix or its Distributor for Products with a Purchase Order. No Purchase Order is binding until accepted in writing by Securonix or delivery of the Products specified in the Purchase Order, whichever occurs first. Securonix reserves the right to partially accept a Purchase Order, either in writing or by partial delivery of Products. The terms and conditions of this Agreement will supersede any additional or different terms provided on any Purchase Order.
   3. Delivery. All Software will be delivered by Securonix to Reseller solely in electronic form. All Hardware will be shipped Ex Works, either Securonix’s site or the site of Securonix’s hardware manufacturer. Securonix will select the carrier in its own discretion.
   4. Price and Payment. Securonix shall, in its sole discretion, establish the list prices for the Products (the "List Prices") and the current List Prices will be provided and updated from time to time and attached hereto as Exhibit A. Securonix may increase or decrease the List Prices upon thirty (30) days written notice to Reseller by providing a new Exhibit A. Pricing for each End User license will be established by Reseller. Reseller is authorized to offer Product per this Agreement to End Users at discounts as specified in Exhibit A. Discounts greater than those specified in Exhibit A must be approved in writing by Securonix before being offered to potential End Users. Reseller may not discount services or training rates if the service is to be provided by Securonix unless otherwise agreed by the parties. Nothing in this Agreement shall prohibit Reseller from charging End Users whatever rate they deem appropriate for services or training provided by Reseller. All Products will be deemed accepted upon delivery, subject to the warranties in Section 7. Reseller will be responsible for all taxes, withholdings, duties, shipping expenses and levies arising from any Purchase Order (excluding taxes based on the net income of Securonix). Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less. All payments will be made in U.S. dollars within thirty (30) days from date of invoice, unless otherwise specified in writing by Securonix. Non-payment by End Users will not relieve Reseller of its obligation to pay fees to Securonix.
3. Reseller Obligations
   1. Marketing. Reseller will actively promote and market the Products in the Territory and will use reasonable commercial efforts to participate in activities set forth in any joint marketing guidelines agreed between the parties. Reseller will independently determine the pricing at which it offers the Products and any related services to End Users in a separate agreement or order between Reseller and the End User.
   2. Management Reviews. Reseller agrees to participate in regular management reviews with Securonix management to discuss issues including: account reviews, lead status, forecast, market plan and other relevant business issues.
   3. General Conduct. Reseller agrees (i) to conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill and reputation of Securonix; (ii) to avoid deceptive, misleading or unethical practices that are or might be detrimental to Securonix or the public, including but not limited to disparagement of Securonix or the Products; (iii) not to publish, employ or cooperate in the publication of any misleading or deceptive advertising material; (iv) to make no representations, warranties or guarantees to prospective customers or the public with respect to the specifications, features or capabilities of the Products that are inconsistent with the applicable Documentation; and (v) not to engage in any acts prohibited by state or federal law, including antitrust or un- fair trade practice laws, which prohibit various forms of predatory, discriminatory or below-cost pricing. Reseller will represent Securonix and its Products and services in a positive and professional manner at all times.
   4. Conflict of Interest. Reseller represents that as of the Effective Date, Reseller does not have a conflict of interest in handling Securonix’s Confidential Information, as defined below in Section 11. Reseller will immediately notify Securonix in writing if a conflict of interest in handling Securonix’s Confidential Information arises.
   5. Enforcement; Indemnification. Reseller agrees to enforce the terms of each End User Agreement and to notify Securonix of any known breach of such terms. Reseller will defend, indemnify and hold harmless Securonix from and against any loss, cost, liability or damage, including reasonable attorneys’ fees, resulting from acts or omissions of Reseller in connection with any End User Agreement. Reseller shall be financially responsible for all claims and damages arising from the failure of Reseller to include the required flow down provisions in the Flow Down Agreement or the issuance of any unauthorized warranty by Reseller.
   6. Sales Training. Within thirty (30) days of the Effective Date, Reseller will have at least two (2) members of its sales team complete Securonix sales training. Sales training classes will be held at Securonix facilities and Reseller is responsible for travel expenses of its staff in connection with such training.
   7. Records and Audit. Reseller will, and will cause its subsidiaries, agents, representatives, or sub- contractors to, maintain books, records and accounts that (i) are true and complete in all material respects, (ii) have been maintained in accordance with reasonable business practices on a consistent basis, and (iii) are stated in reasonable detail and accurately and fairly reflect the transactions and dispositions of the assets and properties of Reseller (and its subsidiaries, agents, representatives, or subcontractors, as applicable), including accurately reflecting all signed End User Agreements, order and payment information, End User information, records relating to copying and use of Software in Reseller’s possession or control, and other actual goods or services being provided or obtained and the actual basis of compensation for such goods or services, all of which will be fair and reasonable under the circumstances. Reseller will, and will cause its subsidiaries, agents, representatives, or subcontractors to, maintain a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions, receipts and expenditures of Reseller (and its subsidiaries, agents, representatives, or sub- contractors, as applicable) are being executed and made only in accordance with appropriate authorizations of management and its board of directors or similar body, (ii) transactions are recorded as necessary to maintain accountability for assets, (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of Reseller (or its subsidiaries, agents, representatives, or subcontractors, as applicable), and (iv) the amount recorded for assets on the books and records of Reseller (or its subsidiaries, agents, representatives, or subcontractors, as applicable) is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Upon ten (10) days advance written notice, Securonix will have the right to audit Reseller (and its subsidiaries and subcontractors) in order to satisfy itself regarding Reseller’s compliance with the terms of this Reseller Agreement. Any such audit will be conducted during normal business hours and in a manner designed to cause the least possible impact on Reseller’s ordinary business activities. Upon request by Reseller, Securonix will select an independent third party to conduct an audit in order to certify to Securonix that no breach has occurred or will occur. Reseller will fully cooperate in (i) any audit conducted by or on behalf of Securonix and (ii) any reasonable investigation by Securonix, including, if requested by Securonix, causing relevant representatives of Reseller (and representatives of its subsidiaries, agents, representatives, or subcontractors, as applicable) to participate in interviews (at reasonable times and places) with the investigators retained by Securonix for the purpose of conducting such investigation; provided that Securonix will reimburse any travel and lodging expenses incurred by such representatives in order to participate in such interviews (consistent with Securonix’s standard expense reimbursement policies), if such interview requires travel to a location more than 50 miles from such representatives’ regular place of work. Reseller will maintain all records required under this Agreement for at least three (3) years following termination of the Agreement.
   8. Reserved.
4. Term of Agreement.
   1. Term. This Agreement is effective as of the Effective Date and will continue for a period of one (1) year (“Initial Term”), unless otherwise terminated as provided herein. Securonix may terminate this Agreement for convenience at any time upon sixty (60) days prior written notice to Reseller. Unless terminated earlier, this Agreement will automatically renew upon expiration of the Initial Term for successive one-year renewal periods (each a “Renewal Term”) unless either party gives the other prior written notice of cancellation at least thirty (30) days prior to expiration of the Initial Term or any Renewal Term. The term of this Agreement (“Term”) will include the Initial Term and all applicable Renewal Terms. Either party may terminate this Agreement (including any unfulfilled Purchase Orders) if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors’ arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days). Notwithstanding the notice and cure period provided in this Section 6.1, in the case of (i) a breach of Section 2.3, 2.4, 11 or 12 of this Agreement or (ii) Securonix’s receipt of any negative findings regarding Reseller in background due diligence conducted by or on behalf of Securonix, this Agreement will immediately terminate upon written notice. Termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.
   2. Termination. Upon any expiration or termination of this Agreement, Reseller will (i) cease to be an authorized reseller and have no right to market, distribute or offer the Products; (ii) cease use of and destroy any and all copies of Securonix Confidential Information in its possession or control and provide Securonix with written certification of such cessation and destruction; and, (iii) immediately pay Securonix any amounts then due and outstanding. Securonix will have no liability to Reseller of any type arising from termination of this Agreement. Any End User licenses for the Software and Embedded Software will survive termination of this Agreement and terminate in accordance with the terms of the applicable End User Agreement, provided that in no event may such licenses be extended or renewed without the prior written consent of Securonix.
   3. Survival. Sections 2.4 and 2.5 (License Restrictions), 3 (Ownership), 4.3 (Price and Payment), 5.7 (Records and Audit), 6 (Term of Agreement), 7 (Warranty Disclaimer), 9 (Limitation of Remedies and Damages), 10 (Indemnification), 11 (Confidential Information), 12 (Export Compliance) and 14 (General) will survive any termination or expiration of this Agreement.
5. Limited Warranties and Disclaimer.
   1. Limited Warranty. All Product warranties are as set forth in the applicable End User Agreement.
   2. SECTION 7 IS A LIMITED WARRANTY, AND SETS FORTH THE ONLY WARRANTIES MADE BY SECURONIX. NEITHER SECURONIX NOR ITS LICENSORS MAKE ANY OTHER WARRANTIES, CONDITIONS, TERMS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, OR ANY OTHER WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM SECURONIX OR ELSEWHERE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT. RESELLER MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, CONDITIONS, TERMS OR UNDERTAKINGS, IF ANY, SHALL BE LIMITED TO THE STATED END USER AGREEMENT WARRANTY PERIOD.
6. Services.
   1. Maintenance. Securonix will provide Maintenance directly to the End User in accordance with the terms set forth in Securonix’s then current Maintenance terms and Conditions (a copy of which is included in the EULA posted on Securonix’s website as stated in Section 1). Securonix will have the right to contract with, determine pricing for, and invoice End Users directly as necessary for Securonix to provide Maintenance pursuant to the terms of this Section 8.1 (including for any renewal period).
   2. Professional Services and Training. All individuals providing installation or implementation services to an End User with respect to the Products shall be Securonix certified prior to providing such services. Reseller may order Professional Services and/or Training to be provided directly by Securonix to End Users at the price listed on Price List or a Securonix valid price quote. Reseller is responsible for and will reimburse Securonix for travel and reasonable related expenses incurred by Securonix’s while performing the Professional Services and/or Training. Securonix will have the right to contract with, determine pricing for and invoice the End Users directly as necessary for Securonix to provide Professional Services and/or Training pursuant to this Section 8.2. If Reseller purchases Professional Services or Training, the parties will schedule a mutually agreed time for the delivery of such Professional Services and Training. If Reseller or End User cancels or postpones such time for any reason without providing to Securonix at least five (5) business days’ advance written notice, Reseller will be responsible for fifty percent (50%) of the price of the scheduled Professional Services or Training. In addition, any Professional Services and/or Training purchased by Reseller must be utilized within twelve (12) months from the date of purchase and, if not so utilized, Securonix will have no obligation to provide such Professional Services and/or Training and Reseller will not be entitled to a refund of any amounts relating thereto.
   3. Securonix Training Location and Expenses. All training classes will be held at Securonix facilities (unless otherwise specified in Exhibit A) and Reseller is responsible for travel expenses and standard fees for such training.
7. Limitation of Remedies and Damages.
   1. NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING PUNITIVE DAMAGES OR LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. THIS SECTION 9.1 SHALL NOT APPLY TO RESELLER WITH RESPECT TO ANY CLAIM ARISING UNDER THE FOLLOWING SECTIONS: 2.3 and 2.4 (LICENSE RESTRICTIONS) OR 11 (CONFIDENTIAL INFORMATION). THIS PROVISION SHALL ALSO APPLY TO ANY THIRD PARTY LICENSOR OF SECURONIX.
   2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, SECURONIX’S (AND ITS THIRD PARTY LICENSORS’) ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY RESELLER TO SECURONIX UNDER THIS AGREEMENT.
   3. The parties agree that the limitations specified in this Section 9 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.
8. Indemnification.
   1. Securonix will defend and indemnify Reseller from and against any claim of infringement of a U.S. patent, U.S. copyright, or U.S. trademark asserted against Reseller by a third party based upon Reseller’s authorized use of the Software or Embedded Software in accordance with the terms of this Agreement, provided that Reseller gives Securonix: (i) prompt written notice of such claim (but in any event notice in sufficient time for Securonix to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and/or settlement of such claim; and (iii) all reasonable necessary cooperation in connection with such investigation, defense and/or settlement. If Reseller’s use of any of the Software or Embedded Software is, or in Securonix’s opinion is likely to be, enjoined due to the type of infringement specified above, or if required by settlement, Securonix may, in its sole discretion: (a) replace or modify the Software or Embedded Software so that it becomes non-infringing, or (b) terminate this Agreement and accept return or certification of destruction of the Software or Embedded Software. The foregoing indemnification obligation of Securonix will not apply: (1) if the Software or Embedded Software is modified by any party other than Securonix, but solely to the extent the alleged infringement is caused by such modification; (2) the Software or Embedded Software is combined with other non-Securonix products or processes not authorized by Securonix in writing, but solely to the extent the alleged infringement is caused by such combination; (3) to any use of a superseded or altered release of the Software or Embedded Software or to any use of the Software or Embedded Software other than as permitted under this Agreement or the Documentation; or (4) to any third-party code contained within the Software or Embedded Software. THIS SECTION 10.1 SETS FORTH SECURONIX’S SOLE LIABILITY AND RESELLER’S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT BY THE SOFTWARE.
   2. Reseller will defend and indemnify Securonix from and against any claim against Securonix that is based on any use or modification of the Software or Embedded Software by Reseller or its agents that is described in whole or in part in any of the exceptions to Securonix’s indemnity in Section 10.1; provided that Securonix’ gives Reseller: (i) prompt written notice of such claim (but in any event notice in sufficient time for Reseller to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and/or settlement of such claim; and (iii) all reasonable necessary cooperation in connection with such investigation, defense and/or settlement.
9. Confidential Information.
   1. Each party agrees that all code, inventions, know-how, business, technical and financial information it obtains (“Receiving Party”) from the other party to this Agreement (“Disclosing Party”) constitute the confidential property of the Disclosing Party (“Confidential Information”), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. The Software, Embedded Software, Documentation, pricing, technical information and other code, data, confidential business or financial information of any type (including, without limitation, Securonix’s plans for new or enhanced Software or Embedded Software), provided by Securonix will be deemed trade secret and Confidential Information of Securonix without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence all Confidential Information of the Disclosing Party and disclose such information only to its employees or contractors with a need to know, provided all such individuals have entered into a written non-disclosure agreement with the Receiving Party with terms no less restrictive than the provisions in this Section 11.
   2. The Receiving Party’s nondisclosure obligation will not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees or contractors of the Receiving Party who had no access to such information.  
        
      The obligations in Section 11.1 will not restrict either party from disclosing Confidential Information of the other party: (i) pursuant to the order or requirement of a court, administrative agency or other governmental body, provided that the party required to make such a disclosure gives reasonable written notice to the other party to contest such order or requirement; and (ii) on a confidential basis to its legal or financial advisors. In addition, each party may disclose the terms and conditions of this Agreement as required under applicable securities laws, but such party will use all reasonable efforts to obtain confidential treatment to the maximum extent possible for the terms and conditions of this Agreement.
   3. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm to the Disclosing Party that could not be remedied by the payment of damages alone and therefore that upon any such disclosure by the Receiving Party the Disclosing Party will be entitled to appropriate equitable relief in addition to whatever remedies it might have at law.
   4. Securonix authorizes Reseller to disclose Confidential Information regarding the Products to prospective customers that are not competitors of Securonix solely for purposes of marketing the Products, provided that each such prospective customer has entered into a written confidentiality agreement with Reseller or Securonix with terms and conditions no less restrictive than the terms and conditions of this Section 11. The rights granted to Reseller in this Section 11.4 do not include the right to distribute any copies of the Software or Embedded Software to prospective customers until such time as such are ordered pursuant to an End User Agreement.
10. Export Compliance.
    1. Responsibility for Costs. Reseller will, at its own expense, pay for all export licenses, customs charges, duties and related fees, and take all other actions required to accomplish the legal distribution of the Product acquired by Reseller.
    2. Restrictions. Reseller acknowledges that the Software and Embedded Software contains encryption technology that is subject to export restrictions by the U.S. government and import restrictions by certain foreign governments. Reseller will not and will not allow any third-party to remove or export from the U.S. or al- low the export or re-export of any part of the Software or Embedded Software or any direct product thereof: (i) into (or to a national or resident of) Cuba, Iran, North Korea, Sudan or Syria; (ii) to anyone on the U.S. Commerce Department’s Table of Denial Orders or U.S. Treasury Department’s list of Specially Designated Nationals; (iii) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (iv) otherwise in violation of any export or import restrictions, laws or regulations of the U.S. or any foreign agency or authority. Reseller agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Software and Embedded Software are restricted from being used for the design or development of nuclear, chemical or biological weapons or missile technology without the prior permission of the U.S. government.
11. Publicity.
    1. At the request of Securonix, Reseller agrees to the issuance of a press release generally describing the parties’ relationship. Each party will have the right to approve the press release in advance, which approval will not be unreasonably delayed or withheld. Reseller agrees that Securonix may disclose Reseller as a Reseller of Securonix.
12. General.
    1. Assignment. This Agreement will bind and inure to the benefit of each party’s permitted successors and assigns. Reseller may not assign or transfer this Agreement, in whole or in part, without Securonix prior written consent. Any attempt by Reseller to transfer or assign this Agreement without such written consent will be null and void.
    2. Severability. If any provision of this Agreement will be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.
    3. Governing Law, Jurisdiction. This Agreement will be governed by the laws of the State of California and the U.S. without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act. Unless waived by Securonix in its sole discretion, the exclusive jurisdiction for actions related to the subject matter hereof will be the state or federal courts located in Los Angeles County, California, and Reseller hereby submits to the personal and exclusive jurisdiction of such courts.
    4. Attorneys’ Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its reasonable attorneys’ fees and costs in connection with such action.
    5. Notices and Reports. Any notice or report hereunder will be in writing to the notice address set forth above and will be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered mail (return receipt requested); or (iii) two (2) days after it is sent if by overnight delivery by a major commercial delivery service.
    6. Amendments; Waivers. No supplement, modification or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.
    7. Entire Agreement. This Agreement, including the attached Exhibits and any subsequent addenda, constitutes the full and complete understanding and agreement of the parties hereto relating to the subject matter hereof and supersedes all prior understandings and agreements relating to such subject matter. No provision of any Exhibit, purchase order or any other business form employed by Reseller will supersede, contradict, vary or modify the terms and conditions of this Agreement, and any such document issued by a party hereto relating to this Agreement will be for administrative purposes only and have no legal effect.
    8. Independent Contractors. The parties are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party’s behalf without the other party’s prior written consent. Any references in this Agreement to the term “partner” merely reference a spirit of cooperation between the parties and are not a reference to any legal form of partnership or any responsibility of one party for the obligations or liabilities of the other party.
    9. Force Majeure. Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the signing of this Agreement and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from  
       fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.
    10. U.S. Governmental Rights. For purposes of this Agreement, “commercial computer software” is defined at FAR 2.101. If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation and other technical data subject to the terms of the Agreement as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation (“FAR”) and its successors. If acquired by or on behalf of any agency within the Department of Defense (“DOD”), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of the Agreement as specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement (“DFARS”) and its successors. This U.S. Government Rights Section is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data.
    11. Revisions to Attachments. Securonix may add to, modify or delete any terms on any Exhibit to this Agreement (including, without limitation, adding, deleting or modifying Product, services and pricing listed on any Exhibit hereto) upon thirty (30) days advance written notice to Reseller. The revised Exhibit will apply to any order placed by Reseller and accepted by Securonix after the effective date of the revision.

**[Remainder of page intentionally left blank.]**

## EXHIBIT A

**[Product Price List or valid Securonix price quote to be provided electronically]**

## **EXHIBIT B- PREMIER PARTNER REGISTRATION FORM**

\*Registration form also available through Securonix online Partner Portal\*Registration form also available through Securonix online Partner Portal

Partner Organization Name: Partner Org Name

Qualified Prospect Company: Prospect Company

Business Unit/Division: Bus Unit/Div

Location: Location

Date of Registration Request: Reg Req Date

Reseller Sales Representative: Reseller sales rep

Securonix Sales Representative: Scx Sales Rep

Securonix Partner Alliance Executive: Scx Partner Alliance Exec

Contact for Accounts Receivable: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Manager of Accounts Receivable Department\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mandatory Qualifications:

* Reseller has demonstrated or presented the Products to the prospective End User.
* Prospective End User has stated an interest in the Products and has a confirmed project plan or budget.
* Reseller has identified the decision maker(s) or buyer within the prospective End User organization.  
  Identified decision makers: Decision Makers

This Partner Registration Form shall be valid for the specific company and project described herein and the rate specified above for twelve (12) months from the date of Securonix’s signature below.

**Premier Partner**- shall introduces Securonix to a customer with an active, qualified opportunity lead the selling process with minimal assistance from Securonix which may include but not limited by the following:

Assistance with key aspects of the selling process, including demonstrations, proposals, RFPs, End User advisory sessions and providing information and context that aids Securonix in the selling process which may include completing the Sales Training and leading the selling process, including developing and submitting the proposal and bid responses, performing Product demonstrations, scoping project deployments, and, if a proof of concept (POC) is required, leading the POC by providing skilled resources to lead and staff the POC with required but limited assistance from Securonix. (Note: 1. Due to the critical role of the POC in a sales process, Securonix must always be given the opportunity to participate in a POC to ensure a successful POC and complete training to be able to provide Installation Services.

Reseller may executes an agreement directly between Reseller and End User for the purchase of a software license for the Products. Any such agreement will include Securonix's End User License Agreement, which may not be altered without Securonix’s written agreement.

“License Fees” shall mean licensing fees received by Securonix pursuant to a Purchase Agreement for the Securonix Products, Services which could include hosting, implementation, maintenance and support, training and Professional Services.

License Fees shall not include any payments for appliances, hardware, or taxes, duties, tariffs, shipping costs.

Reseller may earn the License Fees as provided below and will paid on the Net Revenue Amount on the Purchase Order, minus any taxes, tariffs or duties.

| **Net Revenue of Software License Fees Over $1M USD** | **Percentage to be paid to Reseller for Software License Fees Over $1M USD** |
| --- | --- |
| Securonix Sourced (Securonix provides the lead) Software License Fees | 10% |
| Partner Sourced (Reseller provides the lead) Software License Fees | 20% |
| Perpetual License Maintenance Fees | 12% |
| Professional Services Fees | 10% |
| Training Fees | 10% |

|  |  |
| --- | --- |
| **Net Revenue of License Fees Up to $1M USD** | **Percentage to be paid to Reseller Up to $1M USD in Software License Fees** |
| Securonix Sourced (Securonix provides the lead) Software License Fees | 10% |
| Partner Sourced (Reseller provides the lead) Software License Fees | 30% |
| Perpetual License Maintenance Fees | 15% |
| Professional Services Fees | 10% |
| Training Fees | 10% |

**Registration Details**

Executive sponsor: Exec Sponsor

Technical sponsor: Tech Sponsor

Project/Initiative/Need: Project/Initiative/Need

Joint planning session held? Choose an item

Session date: Click here to select a date

Action plans: Action Plan

Roles, Responsibilities & Fees

|  |  |  |
| --- | --- | --- |
| Reseller role:  Lead Referral: Fee % Enter Fee %  Note: Click to enter note  Sales Assistance: Fee % Enter Fee %  Note: Click to enter note  Sales and POC Leader: Fee % Enter Fee %  Note: Click to enter note  Reseller: Fee % Enter Fee %  Note: Click to enter note  Total Estimated Reseller Fees: $ Total Fees  Notes related to Reseller Role and Fees:  Notes |  | Securonix role:  Lead Referral  Note: Click to enter note  Sales Assistance  Note: Click to enter note  Sales and POC Leader  Note: Click to enter note  Reseller  Note: Click to enter note  Notes related to Reseller Role and Fees:  Notes |

This Partner Registration Form shall be valid only when signed by an authorized representative of Reseller and an authorized representative of Securonix.

|  |  |  |
| --- | --- | --- |
| Reseller: |  | Securonix, Inc.: |
|  |  |  |
| Signature |  | Signature |
|  |  |  |
| Print name |  | Print name |
|  |  |  |
| Date |  | Date |