XXXXX Company LLC.

5000 Dury Street, Suite 1000 Honk, HI 96740 Phone: + 808-000-0000 Fax: + 808-000-0001

**XXXXX AGREEMENT Contract ID: YYYYYY**

This XXXXX Agreement (“**Agreement**”), by and between XXXXX Company LLC (“**XXXXX**”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Partner**”) with its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This Agreement is effective as of the last date beneath the parties’ signatures below (the “**Effective Date**”).

1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings set forth in this Section 1. Certain other terms may be defined in the context of their use elsewhere in the Agreement or an Exhibit, as applicable.

**“Affiliate”** means any entity controlled, directly or indirectly, by, under common control with, or controlling a Party, and specifically includes without limitation, subsidiaries, partnerships, joint ventures, and other entities or operations for which the Party has operational or management control. For the purposes of this definition, control means the power, direct or indirect, to direct, or cause the direction of the management and policies of such entity whether by contract or otherwise and, in any event and without limitation of the previous sentence, owning the majority of the voting stock, shares, securities or assets of another entity.

“**Authorized Users**” or “**End Users**” means persons authorized by ZZZZZ and its Affiliates to use and access the Supplier’s Products and Services in accordance with the terms and conditions of this Agreement and an applicable Ordering Document, including, without limitation, ZZZZZ Affiliates and Customers and their respective employees, consultants, contractors, or third party service providers, outsourcers, carriers, professional advisors and agents, irrespective of country or world region.

* 1. “**Confidential Information**” means information that has value because it is not generally known and that the disclosing party uses reasonable means to protect; and may include proprietary information of third parties who have granted licenses to or have contractual relationships with the disclosing party. Confidential Information excludes information that the receiving party can clearly establish by written evidence: (a) was in the possession of, or was known by, the receiving party prior to its receipt from the disclosing party; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by the receiving party from a third party not under any obligation of confidentiality; or (d) is independently developed by receiving party without use of Confidential Information.
  2. **“Deliverables”** " or "**Work Product**" means (in any form including source code) any and all ideas, processes, methods, programming aids, formulas, manufacturing techniques, mask works, reports, programs, manuals, tapes, card decks, listings, software, developed products, flowcharts and systems, Customizations and any improvements, enhancements, or modifications to any of the foregoing, which are developed, prepared, conceived, made, or suggested by any Supplier Personnel or by Supplier as part of, in connection with, or in relationship to the performance of Services (except in connection with Supplier’s performance of warranty Service obligations or pre-paid Maintenance and Support) pursuant to this Agreement. Work Products also means all such developments as are originated or conceived during the term of this Agreement but are completed or reduced to practice thereafter. **“Derivative Work(s)”** means: (a) for copyrightable or copyrighted material (including materials subject to mask work rights), a work which is based upon one or more pre-existing works, such as a revision, modification, translation, abridgement, condensation, expansion, collection, compilation, or any other form in which such pre-existing works may be recast, transformed, or adapted; (b) for patentable or patented materials, any adaptation, addition, improvement, or combination; and (c) for material subject to trade secret protection, any new material, information, or data relating to and derived from such existing trade secret material, including new material which may be protectable by copyright, patent, or other proprietary rights; provided, however, that the foregoing shall not include pre-existing Intellectual Property Rights of the other party which may be incorporated or embedded into such Derivative Work.
  3. “**Documentation**” means the user manuals and documentation related to a XXXXX Product that XXXXX makes available to Partner or End Customer, as applicable, along with the applicable XXXXX Product.
  4. “**End Customer**” means any end user entity sub-licensing XXXXX Products, and/or purchasing Services, as set forth in the applicable Exhibit for its own internal use
  5. “**Exhibit**” means a SI Exhibit or Other Exhibit attached hereto which specifies Partner’s programmatic participation type, territory and level, and denotes certain business terms relating to the XXXXX Partner Program, each of which is incorporated herein upon signature by both parties.
  6. “**Intellectual Property Rights**” means all intellectual property rights worldwide arising under statutory or common law or by contract, and whether or not perfected, now existing or hereafter filed, issued, or acquired, including all: (a) patent rights; (b) rights associated with works of authorship including copyrights and mask work rights; (c) rights relating to the protection of trade secrets and confidential information; (d) trademarks, service marks, trade dress and trade names; and (e) any right analogous to those set forth in this Agreement and any other proprietary rights relating to intangible property, and the right to apply for any of the foregoing rights.
  7. “Managed Services” means
  8. “**XXXXX Products**” means the XXXXX software products or cloud offerings made available by XXXXX from time to time pursuant to and as identified in an Exhibit.
  9. “**Order Form**” means a XXXXX order form, executed by Partner, pursuant to which Partner orders XXXXX Products or Services from XXXXX.
  10. “**Other Exhibit**” means an additional exhibit to this Agreement, such as a value-added reseller or referral exhibit, provided by XXXXX in its sole discretion, which the parties may enter into from time to time to supplement the business relationship between the parties.
  11. “Outsourcing Services” means
  12. “Prime Agreement” means
  13. Purchase Order” means a transaction document issued by ZZZZZ or ZZZZZ Affiliates to Supplier to purchase Products or Services
  14. “**Required Consent**” means any consents or approvals required by the consenting party’s corporate practices, policies, by-laws or applicable regulations to give the performing party the right to access, use, execute, reproduce, perform, and/or modify (including create Derivative Works) the other party’s or a third party’s software, hardware, firmware, or other products to enable performance of the Services without infringing any Intellectual Property Rights.
  15. “Resale Rights” means
  16. “**Services**” means consulting, or training services purchased by Partner on behalf of End Customer, and performed by XXXXX directly for the End Customer pursuant to and as specified in a Statement of Work.
  17. “**SI Exhibit**” means an Exhibit hereto whereby Partner is authorized to perform SI Services (as defined below), to receive SI Partner program benefits, and purchase Services (subject to Section 3 hereof).
  18. “**SI Services**” means services provided by Partner to an End Customer, with respect to the installation, configuration, testing and implementation of the XXXXX Product on such End Customer’s networks.
  19. “**Statement of Work**” or “**SOW**” means a statement of work describing Services to be provided hereunder, that is entered into between XXXXX and Partner or which is incorporated into an Order Form that is entered into between XXXXX and Partner.

1. **PARTNER PROGRAM EXHIBIT.** This Agreement governs the transactions described in any Exhibit executed by the parties. The parties may execute more than one type of Exhibit in their mutual discretion. In the event of any conflict between the terms of this Agreement and the terms of an executed Exhibit, the terms of that Exhibit will control solely with respect to the performance of the parties pursuant to that Exhibit.
2. **PURCHASE OF SERVICES.** XXXXX will supply Services ordered by Partner pursuant to an SI Exhibit in accordance with the relevant Order Form and/or Statement(s) of Work, each of which shall be incorporated herein by reference.

**3.1 Execution of Order Forms.** All Order Forms and Statements of Work must reference this Agreement and must be signed by both parties before XXXXX will commence performance of Services under an SOW. If the parties do not execute a separate Statement of Work, the Services shall be provided as stated on the Order Form. In relation to Services, Partner will pay travel and living expenses per diem as stated in a SOW and XXXXX will adhere to Partner travel guidelines as stated in a SOW, if any, actually and reasonably incurred in connection with providing the Services.

**3.2** **Indemnity.** Each Party (the “Indemnifying Party”) will defend, at its own expense, and indemnify the other party (the “Indemnified Party”) against any action by a third party (including any End Customer) that is based upon personal injury or property damage to such third party’s facilities arising out of the gross negligence or intentional misconduct of either party during the performance of the SI Services or the Services, as applicable.

**XXXXX IP Infringement.** XXXXX shall indemnify, defend and hold harmless the Partner from and against all free and harmless from all claims, demands, causes of action, suits, settlements and judgments of any type, and any attendant liabilities, losses, damages, costs and expenses (including attorney's fees and expenses)(collectively, “Losses”) Losses arising from or in connection with any third party claim to ownership of or any interest in any Products, Work Product, Services, or any portion thereof, including any claim made or any suit or proceeding brought against Partner or Customer insofar as it is based on an allegation that any portion of the Products, Services or Deliverables infringes or violates any patent, copyright, trademark, trade secret, utility model, industrial design, mask work, moral right or other intellectual property right.

1. **PAYMENTS.**

**4.1 Fees.** Partner will pay the fees specified in the relevant Order Form(s) and/or Statement of Work(s) (the “**Fees**”) in accordance with Section 4.2 and 4.3 below.

**4.2 Taxes/Duties.** All Fees payable under this Agreement are exclusive of any duties or sales, use, value added, excise, or other governmental or similar taxes applicable to the transactions covered by this Agreement (including but not limited to the relevant Order Form, SOW, and/or Exhibit) (“**Taxes**”). XXXXX will separately itemize any applicable Taxes of which it is aware on each invoice, unless the paying party furnishes the other party with a properly executed and applicable tax exemption certificate. Partner will be responsible for paying all Taxes arising with respect to payments under this Agreement, other than Taxes based on the net income of the party delivering the invoice. If applicable law requires Partner to withhold amounts from any payments otherwise owed under this Agreement, Partner will gross up the sum payable by Partner upon which the deduction or withholding is based to the extent necessary to ensure that, after such deduction or withholding, XXXXX receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount XXXXX would have received and retained absent the required deduction or withholding.

**4.3 Payment.** Partner will pay all invoices within ninety (90) days of the date of the invoice, in U.S. dollars, without right of set off or chargeback. Fees paid are non-refundable unless as follows: (i) the Purchase Order(s) is cancelled prior to delivery (ii) both parties agree to the refund. Partner’s obligation to pay Fees is not contingent upon Partner’s receipt of payment of license or services fees from the End Customer..

**4.4 Records; Audit Rights.** During the term of this Agreement and for 2 years after its termination or expiration, the partieswill maintain industry-standard books and records relating to its performance under this Agreement. The parties agrees upon at least five (5) days prior written notice, a party may request to inspect, directly or through an agent, such books and records to verify the party’s compliance with this Agreement and all such Exhibits. if the audit reveals s breach by a party r, in which case the party in breach will pay for the cost of the audit.

1. **CONFIDENTIALITY.** Each party acknowledges that it acquires only the right to use the other party's Confidential Information solely to the extent necessary to perform under and comply with the terms and conditions of this Agreement. Neither party acquires any rights of ownership or title in the other party's Confidential Information by virtue of receipt of such Confidential Information. Each party will hold in confidence any Confidential Information received by it, will not use such Confidential Information (other than as expressly permitted hereunder), and will protect the confidentiality of such Confidential Information with the same degree of care that it exercises with respect to its own information of like import. Each party will only disclose Confidential Information to its employees, agents, representatives and authorized contractors (collectively “**Representatives**”) having a need to know for the purposes of this Agreement. Each party will notify such Representatives of the limitations, duties, and obligations of this Section 5. Each party is liable for all acts and omissions of its Representatives related to the other party’s Confidential Information. Each party agrees to give notice to the other party immediately after learning of or having reason to suspect a breach of any of the proprietary restrictions set forth in this Section. In the event that a party is required to disclose Confidential Information pursuant to any applicable statute, regulation or order of a court of competent jurisdiction, that party will use commercially reasonable efforts to notify the other party of the required disclosure.
2. **INTELLECTUAL PROPERTY (IP) RIGHTS.** Both Parties acknowledges and agrees that, each Party will remain the sole and exclusive owner of all right, title, and interest in and to (i) the all their pre-existing technology and IP, (iii) ( (v) f (i)-(iv), other than such express limited license(s) as may be granted by XXXXX pursuant to an executed Order Form or Statement of Work.
3. **WARRANTIES.**

**7.1 XXXXX Product Warranty.** During the ninety (90) day period following delivery, XXXXX warrants that the XXXXX Products will conform in all material respects with the then-current published Documentation and/or Product specification with respect to that XXXXX Product. In case of breach of the foregoing warranty, XXXXX will correct or replace the non-conforming XXXXX Products within seven (7) days. The foregoing represents Partner’s sole remedy, and XXXXX’s sole obligation, with regard to breach of the warranty set forth in this Section 7.1.

**7.2** **SI Services and** **Services Warranties.** Unless expressly set out to the contrary in a Statement of Work, each party warrants only that it will perform the SI Service or the Services, as applicable, in a workmanlike and professional manner consistent with industry standards. Each party’s sole liability and sole remedy for breach of the foregoing warranty set forth in this Section 7.2 shall be the re-performance of the non-complying Services.

**7.3** **Partner Covenant.** Unless approved by XXXXX in advance by execution of an acceptance letter, a sample form of which is attached hereto as Attachment 1 to an Exhibit, Partner represents, warrants, and covenants that the Partner will not promote, deploy, or otherwise support an End Customer’s implementation of the community edition of XXXXX’s products.

**7.4 Warranty Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 7, THE XXXXX PRODUCTS AND THE SERVICES ARE PROVIDED “AS IS” AND NEITHER PARTY MAKES ANY OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, , , SYSTEM INTEGRATION, COURSE OF PERFORMANCE OR FITNESS FOR A PARTICULAR PURPOSE. **LIMITATION OF LIABILITY.** NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), HOWEVER SUCH DAMAGE MAY ARISE, AND REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED (BREACH, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE), EVEN IF SUCH PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

IN NO EVENT SHALL EITHER PARTY’S ARISING OF PERFORMANCE OF THIS AGREEMENT OR IN FURTHERANCE OF THE PROVISIONS OR OBJECTIVES OF THIS AGREEMENT EXCEED on a per claim basis THE GREATER OF (a) $X MILLON OR (b) FIVE (5X) TIMES THE “APPLICABLE FEES”GIVING RISE TO SUCH DAMAGES. FOR THE PURPOSES OF THIS SECTION, ‘APPLICABLE FEES’ INCLUDES ALL FEES THAT ARE i) PAID, ii) PAYABLE, OR iii) THAT WOULD HAVE BEEN PAID HAD XXXXX FULLY PERFORMED ALL OF ITS OBLIGATIONS UNDER THE AGREEMENT.

THE FOREGOING LIMITATIONS SHALL NOT APPLY TO CLAIMS ARISING OUT OF PARTNER’S INFRINGEMENT ON OR MISAPPROPRIATION OF XXXXX’S INTELLECTUAL PROPERTY RIGHTS, OR DAMAGES ASSOCIATED WITH EITHER PARTY’S INDEMNIFICATION OBLIGATIONS AS SET FORTH HEREUNDER. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, ANY LIMITATION ON SUPPLIER'S LIABILITY, EITHER AS TO TYPE OR AMOUNT OF DAMAGES, SHALL NOT APPLY TO ANY CLAIM ARISING FROM (I) SUPPLIER'S BREACH OF ITS OBLIGATIONS WITH RESPECT TO Partner CONFIDENTIAL INFORMATION OR SUPPLIER’S DATA AND PRIVACY OBLIGATIONS, (II) SUPPLIER'S DEFENSE AND INDEMNITY OBLIGATIONS, (III) SUPPLIER’S BREACH OF ITS OBLIGATIONS WITH RESPECT TO THE SECURITY OF Partner’S DATA AND SYSTEMS, (IV), CLAIMS RESULTING FROM PERSONAL BODILY INJURY, INCLUDING DEATH, OR DAMAGE TO OR DESTRUCTION OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY, AND (V) CLAIMS RESULTING FROM SUPPLIER’S CRIMINAL BEHAVIOR OR WILLFUL MISCONDUCT.

1. **TERM AND TERMINATION.**

**9.1 Term.** This Agreement will remain in effect for a period of one (1) year (the “**Initial Term**”). Thereafter, this Agreement will automatically renew for additional one (1) year periods (each, a “**Renewal Term**” and collectively with the Initial Term, the “**Term**”) unless either party provides written notice of its intent not to renew at least sixty (60) days prior to the end of the then current term. Notwithstanding the foregoing, the terms hereof shall continue and be coterminous with the longer term of any Exhibit, if any, provided, however, that such continuations shall apply solely with respect to that Exhibit.

**9.2 Termination.** This Agreement may be terminated by a party for cause immediately if (a) the other ceases to do business, or otherwise terminates its business operations; or (b) the other materially breaches any material provision of this Agreement and fails to cure such breach within thirty (30) days of written notice describing the breach; or (c) By either party, immediately, if the other party has a receiver appointed, or an assignee for the benefit of creditors, or in the event of any insolvency or inability to pay debts as they become due by the other party, except as may be prohibited by applicable bankruptcy laws., By Partner immediately if a Prime Agreement or any portion thereof is terminated.

**9.3 Effects of Termination.** Upon termination of this Agreement by either party all rights and licenses of Partner hereunder and (subject to Section 9.1) under each Exhibit will terminate, provided that (i) sub-licenses properly granted to End Customers in accordance with the applicable Exhibit will remain in effect in accordance with their terms; (ii) payments earned under an Exhibit prior to its termination or expiration shall remain due and payable; and (iii) each party will immediately return to the other party all Confidential Information in its possession, custody or control in whichever form held (including all copies or embodiments of the Confidential Information) and will cease using any trademarks, service marks and other designations of the other party; and (iv) all Exhibits shall terminate..

**9.4 Survival.** Sections 1, 4-6, 7.4, 8, 9.1 (but solely with regard to continuation for term of Exhibit), 9.3, 9.4, 12.3, and 13 will survive the expiration or termination of this Agreement.

1. **MARKETING.**

**10.1 Logos, Marks and Names.** Neither party may use the other party’s trademarks, service marks, trade names and/or logos of the other party without prior written notice and approval.. Each party acknowledges that except for the limited use rights expressly set forth hereunder, neither party is granted any ownership in or license to use the trademarks, service marks, trade names or logos of the other party (including any non-English translations of them). Each party shall not adopt, register, or attempt to register any logo, mark or name of the other party, or those of its suppliers, (including non-English translations of them) in any jurisdiction unless expressly approved in writing by the other party in advance. Neither party shall market the products or services of the other party in any way that implies that such products or services are its own proprietary products or are proprietary products of any third party.

**10.2 No Endorsement**. Notwithstanding each party’s limited rights hereunder to use the other party’s logos, trademarks, service marks and trade names, the parties agree that each party does not, and will not, make any endorsements, warranties, or guarantees of performance with respect to the other party’s products or services, and in no event shall it be construed under this Agreement that a party has in fact made any certifications with respect to the foregoing. Neither party shall make any representations to any third parties that the other party has certified on or made any such endorsements, warranties, or guarantees, or that the other party has implied, or intends to imply, the merchantability, fitness for a particular purpose, or the satisfactory quality of the other party’s products or services, or that the other party’s products or services do not infringe any third party’s intellectual property rights.

**10.3 Publicity**. XXXXX may use Partner’s name, in accordance with trademark use regulations and any guidelines provided by Partner in writing in advance (if any) in press releases, product brochures, financial reports and other marketing materials to indicate that Partner is a member of the “XXXXX Partner Program.”

1. **REQUIRED CONSENTS.** With respect to the performance of Services, and unless otherwise set out under the relevant Statement of Work, Partner shall be responsible for obtaining all Required Consents and for paying any associated costs, fees or charges necessary to provide the Services.
2. **ANTI-CORRUPTION LAWS COMPLIANCE.**

**12.1 Compliance with Laws and Policy.**XXXXX conducts itself according to the highest standards of ethical conduct. Pursuant thereto, XXXXX adopted an Anti-Corruption Policy (the “**Anti-Corruption Policy**”) that outlines our requirements and prohibitions applicable to our operations under applicable anti-corruption laws, including but not limited to, the U.S. Foreign Corrupt Practices Act of 1977 (“**FCPA**”) and the UK Bribery Act of 2010 (“**Bribery Act**”) (collectively, “**Anti-Corruption Laws**”). The Anti-Corruption Policy applies to XXXXX employees, agents, partners, and other third-party representatives that conduct business on behalf of XXXXX outside of the United States. By executing this Agreement, Partner acknowledges the applicability of and agrees to conduct its business relationship with XXXXX in full compliance with the Anti-Corruption Laws and the Anti-Corruption Policy. Partner further agrees that its senior management and any employees authorized to engage on behalf of XXXXX pursuant to this Agreement shall receive and complete Anti-Corruption Laws compliance training. Anti-Corruption Laws compliance training shall be offered by XXXXX to Partner. Partner represents and warrants that it is and will remain in compliance with the Anti-Corruption Laws for the Term of this Agreement.

**12.2** **Audit Rights***.* XXXXX retains the right to review all Partner records related to any actions or activities governed under the Anti-Corruption Laws, including but not limited to: (a) payments made and meetings with foreign governmental officials, and (b) evidence that Partner’s senior management and employees completed FCPA compliance-related training. Partner also agrees to fully cooperate with any ethics and compliance investigations conducted by XXXXX or an outside party acting on behalf of XXXXX or regulatory authority. To the extent permitted by law, the results of any such review or audit pertaining to compliance with Anti-Corruption Laws and/or the Policy will be deemed Confidential Information as defined herein.

**12.3** **GENERAL TERMS.**

**13.1 Force Majeure.** neither party is liable under this Agreement for non-performance caused by events or conditions beyond that party's control if the party makes reasonable efforts to perform. to the extent that such nonperformance is due to failure, delay or default is without the fault or negligence of such Party. Such causes include, by way of illustration and not limitation, action or inaction of a governmental agency; civil or military authority; fire; flood; war; acts of terrorism; riot or civil disturbance; earthquake and other like or similar natural disaster (“Force Majeure Event”).

The Party affected by such Force Majeure Event shall take all reasonable actions to prevent and/or minimize the consequences of any such Force Majeure Event, and perform its obligations and responsibilities to the fullest extent possible during such Force Majeure Event. If such Party cannot perform its obligations and responsibilities Partner will determine if the Parties will discuss at that time

In the event of a Force Majeure Event, Partner may act in its sole discretion to: (a) Allow an extension of time for Supplier to remedy the effects of the Force Majeure Event; (b) Terminate the affected Assignment Order or Statement of Work, or any part of it, as to Services not yet performed; or (c) Suspend the affected Assignment Order or Statement of Work and/or Purchase Order, in whole or in part, for the duration of the Force Majeure Event, contract for similar services elsewhere, and receive a refund of any prepaid fees or costs associated with those Services that are contracted to another party. Notwithstanding the language of this section, Supplier shall be paid for actual Services rendered prior to the termination or suspension, unless Supplier would not have been paid based upon any other provision of this Agreement or applicable law.

If during a Force Majeure event, Partner determines that it is commercially impracticable or actually impossible to make payments to Supplier, then for as long as those conditions persist, in Partner’s sole discretion, all payments or other obligations of Partner to Supplier regarding matters affected by a Force Majeure Event shall be suspended during any Force Majeure Event, but only to the extent and for the duration that such factors persist.

**13.2 Relationship of Parties.** This Agreement is not intended to create a relationship such as a partnership, joint venture, agency, or employment relationship. Neither party may act in a manner which expresses or implies a relationship other than that of independent contractor, nor bind the other party.

**13.3 Notices.** All written notices required by this Agreement must be delivered to the addresses specified below, either in person or by a means evidenced by a delivery receipt. All notices will be effective upon receipt.

If to XXXXX:

XXXXX, LLC.

5000 Dury Street, Suite 1000

Honk, HI 96740

Attn: General Counsel

If to Partner:

To the address at the beginning of the Agreement unless otherwise specified in writing by Partner*.*

**13.4 Assignment.** Neither Party may not assign this Agreement, by operation of law or otherwise, without the other Party’s prior written approval. Any attempted assignment, transfer or delegation without such prior written consent will be void and unenforceable

**13.5 Waiver or Delay.** Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement.

**13.6 Severability.** If any term or provision of this Agreement is found to be invalid under any applicable statute or law then, that provision notwithstanding, this Agreement will remain in full force and effect and such provision will be deemed omitted.

**13.7 Construction.** This Agreement has been negotiated by the parties, each of which has been represented by counsel. This Agreement will be fairly interpreted in accordance with its terms, without any strict construction in favor of or against either party.

**13.8 Governing Law and Venue.** Any action related to this Agreement will be governed by the state of Delaware law and controlling U.S. federal law without regard for its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods will not apply.

**13.9 Dispute Resolution.**

In the event that the parties are unable to agree upon any matters pursuant to this Agreement, the disputed matter will be referred to [provide director level position] for Partner and [provide the director level position] for XXXXX. If these two representatives cannot reach a mutually acceptable agreement within a reasonable time, the matter will be referred to the VP level position for Partner and provide the VP level position for XXXXX. In the event they cannot reach a mutually acceptable resolution within a reasonable time, either Party will be entitled to seek all available remedies, including legal remedies. Notwithstanding the foregoing, either Party may seek injunctive relief with respect to any disputed matter without following the dispute resolution procedure set forth above. All negotiations pursuant to this section are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

**13.10 Export.** Partner will comply fully with all relevant export laws and regulations of the United States, the European Union, and all other foreign countries, including without limitation the U.S. Export Administration Regulations (collectively “**Export Controls**”). Without limiting the generality of the foregoing, Partner will not and shall require its representatives not to, export, direct, or transfer the XXXXX Products to any destination, person, or entity, or for any end-use restricted or prohibited by the Export Controls. Partner represents that (1) it is not, and is not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) it will not permit items delivered under this Agreement to be used for any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons.

**13.11 Government Rights**. The XXXXX Products under this Agreement are "commercial computer products" as that term is described in DFAR 252.227-7014(a)(1). If acquired by or on behalf of a civilian agency, the U.S. Government acquires the XXXXX Products and Documentation subject to the terms and this Agreement as specified in 48C.F.R. 12.212 (Computer Products) and 12.11 (Technical Data) of the Federal Acquisition Regulations (“**FAR**”) and its successors. If acquired by or on behalf of any agency within the Department of Defense (“**DOD**”), the U.S. Government acquires the XXXXX Products and Documentation subject to the terms of this Agreement as specified in 48 C.F.R. 227.7202 of the DOD FAR Supplement and its successors.

* 1. **13.12 Complete Agreement.** This Agreement, including its Exhibits (including their respective schedules and appendices, if any), and any Order Forms or SOWs entered into hereunder, constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. The parties’ standard quotation and purchase order forms (other than the Order Forms) will be for the sole purpose of defining quantities and prices and describing the XXXXX Products and the Services to be provided under this Agreement, and any additional or differing terms and conditions contained therein are deemed void and wholly inapplicable to this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party; no other act, document, usage, or custom will be deemed to amend or modify this Agreement. This Agreement is intended by the Parties to be read and interpreted, along with any Schedules, Exhibits, Addenda, Statements of Work, etc., without conflict among or between any of their provisions. In the event any such conflict should arise, the Parties agree that the following will control in descending order of precedence: (i) this Agreement and its Attachments, (ii) pricing Exhibits, (iii) the Schedules, except that a term or condition in a Schedule that expressly states the Parties intent for such term or condition to supersede a specific term or condition in this Agreement shall take precedence for that limited purpose, and (iv) other Exhibits to a Schedule. Any purported change to this Agreement contained within a Statement of Work or Order Form shall be invalid unless signed by a designated member of Partner’s Supply Chain Management organization delegated the authority to bind Partner.

**13.13 Language.** The language of this Agreement is expressly stipulated to be the English language. In the event that this Agreement is translated into one or more other languages, whether by XXXXX, Partner, or any other third party, such translation is deemed issued only for the convenience of the audience and only the English language version of this Agreement shall be the governing version for the purposes of interpreting and enforcing this Agreement.

**Intending to be legally bound, the parties have had this Agreement executed by their duly authorized representatives.**

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| --- | --- |
| **XXXXX, LLC** | Click or tap here to enter text. |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

ATTACHMENT 1

**SAMPLE FORM OF ACCEPTANCE LETTER ONLY - DO NOT SIGN**

Mr. John Doe

SVP Global Channels and Alliance

XXXXX, LLC.

5000 Dury Street, Suite 1000

Honk, HI 96740

RE: CE Approval

Dear Mr. Doe:

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (“Partner”) am requesting approval to promote, deploy, or otherwise support an End Customer’s implementation of the community edition (“CE”) of XXXXX’s products. Business justification is as follows:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Please acknowledge your acceptance by signing below where indicated.

Sincerely,

[To be signed by Partner if and when applicable]

**Acknowledged and Agreed:**

[To be signed by XXXXX if and when applicable]

**SYSTEM INTEGRATION EXHIBIT TO THE XXXXX PARTNER AGREEMENT**

This System Integration Exhibit (this “**SI Exhibit**”) is issued under and is subject to that certain XXXXX Partner Agreement #<insert agreement number - e.g. INTE01-PTR> (“**Agreement**”) between XXXXX, LLC (“**XXXXX**”) and <insert partner name> (“**Partner**”).

**1. Participation in XXXXX Partner Program:** Subject to Partner’s compliance with the terms of the Agreement and this SI Exhibit, Partner is hereby authorized, within the Territory (as defined below) to (a) perform the SI Services as further described in Section 2 below, and (b) purchase Services as further described in Section 6 below.

XXXXX shall communicate the applicable Partner Program level to Partner upon the initial enrollment in the XXXXX Partner Program. As a condition of continued participation in the XXXXX Partner Program, Partner shall comply with the Partner Plan, including, but not limited to, the Qualification Requirements, applicable to Partner’s designated Partner level, by the end of the Initial SI Exhibit Term (as defined below). XXXXX Partner levels, including Qualification Requirements, partner benefits and applicable requirements are identified in XXXXX Partner Plans available at [https://www.XXXXX.com/legal/terms/partner-agreements](https://www.mulesoft.com/legal/terms/partner-agreements) (the “**Partner Plans**”).

XXXXX will review Partner’s compliance with the Qualification Requirements at the end of the Initial SI Exhibit Term and continually at the end of the then-current Renewal SI Exhibit Term and notify Partner of it’s Partner Program level. Partner shall continue to maintain compliance with the applicable Qualification Requirements throughout the Term of the Agreement.

Partner Plans included in the Partner Program are subject to change and XXXXX may amend the Products provided to the Partner at its sole discretion. All unused training credits included in the Partner Plans expire at the end of each SI Exhibit Term year.

**2. System Integration:**

**2.1 Provision of SI Services.** Partner shall provide SI Services to End Customers under a negotiated agreement or statement of work between Partner and the relevant End Customer. During the SI Exhibit Term hereof, Partner will maintain a staff of sales, professional services, and technical support personnel sufficient to meet the needs of End Customers receiving SI Services. Partner will ensure that all personnel involved in providing SI Services are properly trained with respect to the relevant XXXXX Product(s). Partner will not make or publish any representations, warranties or guarantees on behalf of XXXXX concerning the XXXXX Product except as authorized in writing and in advance by XXXXX.

**2.2 Use End Customer Licenses to Provide SI Services.** Subject to Partner’s compliance with the Agreement and this SI Exhibit, XXXXX grants Partner a non-exclusive, non-transferable, royalty-free, revocable license (without the right to sublicense) during the term of the Agreement and solely in the Territory to use copies of the XXXXX Product licensed to an End Customer (“**End Customer License**”), in executable code format only and subject to the relevant Documentation and EULA, to perform SI Services. The XXXXX Product and its source code are Confidential Information of XXXXX subject to Section 5 of the Agreement. Partner must not modify, adapt, alter, translate, or create Derivative Works from the XXXXX Product or the related Documentation; distribute, sublicense, lease, rent, loan, or otherwise transfer the XXXXX Product or Documentation to any third party; or reverse engineer, decompile, or otherwise attempt to derive the source code for the XXXXX Product. Partner must reproduce on all copies, and must not remove, alter, or obscure in any way any proprietary rights notices of XXXXX or its suppliers on or within the copies of the XXXXX Product and the Documentation. All rights in and to the XXXXX Product not expressly granted to Partner in this SI Exhibit are reserved by XXXXX.

**3. Territory:** <insert applicable territories>.

**4. Term and Termination:**

**4.1 Term of SI Exhibit.** The term of this SI Exhibit shall commence as of the latter date of signature below (the “**SI** **Exhibit Effective Date**”) and shall continue through to the February 28th subsequent to the SI Exhibit Effective Date (the “**Initial SI Exhibit Term**), even if such is in the same calendar year. This Exhibit shall automatically renew for subsequent one (1) year periods beginning on the March 1st subsequent to the SI Exhibit Effective Date (each, a “**Renewal SI Exhibit Term**” and, collectively with the Initial SI Exhibit Term, the “**SI Exhibit Term**”), even if such is in the same calendar year, unless either party gives the other written notice of termination of this Exhibit at least thirty (30) days prior to expiration of the then-current SI Exhibit Term. By way of example only, for the purposes of determining the Initial SI Exhibit Term and Renewal SI Exhibit Term: if the SI Exhibit Effective Date is December 1, 2019, then the Initial SI Exhibit Term shall be December 1, 2019 – Feb 28, 2020, and the first Renewal SI Exhibit Term shall commence on March 1, 2020 and continue through February 28, 2021 unless terminated in accordance with the terms herein, and so on; if the SI Exhibit Effective Date is January 1, 2020, then the SI Exhibit Initial Term shall be January 1, 2020 – Feb 28, 2020, and the first Renewal SI Exhibit Term shall commence on March 1, 2020 – February 28, 2021 unless terminated in accordance with the terms herein, and so on. Notwithstanding the foregoing, this SI Exhibit shall be coterminous with the Agreement (e.g. this SI Exhibit will terminate automatically in the event of termination of the Agreement pursuant to Section 9 thereof).

**4.2 Termination of Exhibit.** In addition to termination provisions set forth herein and in the Agreement, XXXXX may terminate this SI Exhibit (a) after the end of the Initial SI Exhibit Term, immediately upon notice in the event that XXXXX becomes aware that Partner is not in compliance with the Qualification Requirements and is unable to become compliant within thirty (30) days of notice of such non-compliance; or (b) in its sole discretion with thirty (30) days prior written notice, provided, however, that any the parties will fulfill any Order Forms and/or SOWs entered into prior to such termination unless the parties mutually agree otherwise pursuant to the terms of such Order Form or SOW.

**4.3 Effects of Termination of SI Exhibit**. Upon termination of this SI Exhibit, Partner shall (a) cease use of and return all copies of the Internal Use Software to XXXXX upon the earlier of the termination of this Agreement or at the end of the SI Exhibit Term; (b) cease use of End User Licenses for the purposes of performing SI Services; (c) refrain from holding itself out as a XXXXX SI Partner and cease all use of XXXXX trademarks or certification badges and the like; and (d) cease performance of the SI Services.

**5. Development Support:**

**5.1 Limited License for Internal Use.**  Subject to all of the restrictions in the Agreement regarding the XXXXX Product, Partner shall have the right during the SI Exhibit Term to install and use, only on its own computers, a reasonable number of copies of the XXXXX Product solely for internal training, demonstration, and testing purposes (the “**Internal Use Software**”). Such use shall include license to build demonstrations or sandbox environments for the purposes of responding to RFPs or other pre-sale or marketing activities, train and educate Partner’s team members. Partner may not use the Internal Use Software for Partner’s own commercial business use, any development work or any End Customer deployment. The foregoing shall not be construed as authorization to resell XXXXX Products and any such resale, if permitted by XXXXX, shall be subject to a separate SI Exhibit to this Agreement. XXXXX makes no warranty and shall have no support obligation of any type (except as included in Partner Development Support below) regarding the Internal Use Software.

**5.2 Partner Development Support**. In conjunction with Partner’s use of Internal Use Software provided in 5.1 above, XXXXX shall provide the following support of the Partner: (A) for Strategic Partners, Gold level Support and Maintenance is included without additional fee, and (B) for Select and Premier Partners, support is provided by XXXXX’s channel development and sales organizations on a commercially reasonable basis.

**6. Services:** Where the End Customer has purchased subscriptions for XXXXX Products, Partner may, as part of its provision of SI Services, purchase services from XXXXX whereby XXXXX will provide certain consulting or training services with respect to the implementation and installation of XXXXX Products and enablement of End Customer’s users of the XXXXX Products (as defined in the Agreement, the “**Services**”) as a subcontractor to Partner. Use of the applicable XXXXX Products will be pursuant to XXXXX’s End User License Agreement entered into by the End Customer. Partner will execute, or has concurrently with the applicable SOW executed, a services agreement or a statement of work with the End Customer for the provision of the Services (which may include other SI Services or related services being provided directly by the Partner) that (a) disclaims any liability of XXXXX to the End Customer with relation to the Services; (b) contains terms and conditions at least as protective of XXXXX’s Intellectual Property Rights as those set forth in Sections 6 and 7 of the Agreement; and (c) does not make commitments to the End Customer on behalf of XXXXX beyond what is agreed upon in the Agreement, this SI Exhibit, or the applicable SOW between XXXXX and Partner for such Services.