

## ZENOSS MASTER PARTNER AGREEMENT

This Zenoss Master Partner Agreement is between Zenoss, Inc., a Delaware corporation, having an office at 11305 Four Points Drive, Building 1, Suite 300, Austin, Texas 78726 ("**Zenoss**"), and the undersigned partner, a \_\_\_\_\_ entity, having an office at \_\_\_\_\_ ("**Partner**") and is effective as of the Effective Date stated below.

Zenoss and Partner would like to establish a legal framework for Zenoss to authorize Partner to:

The terms and conditions of this Agreement will apply to all aspects of the authorized Partner activities granted by Zenoss to include (i) resell Zenoss software licenses and support; (ii) provide Product managed services; (iii) provide referral only leads to Zenoss; or (iv) provide support, training, implementation, consulting, development and other professional services to Partner's customers in connection with their use of Zenoss software.

This Agreement hereby incorporates by reference the attached General Terms and Conditions (the "**General Terms and Conditions**," or "**GTC**") and each annex agreed upon by the parties that contains the specific terms and conditions applicable to the types of authorized partner services Partner will provide to Zenoss (each, an "**Annex**"). The Annex or Annexes the parties have agreed upon as of the Effective Date are indicated below and attached to this cover page, along with the GTC.

(Check the box next to the Annexes that apply as of the Effective Date):

CHECK IF ATTACHED	ANNEX NAME
<input type="checkbox"/>	Software Reseller Annex
<input type="checkbox"/>	Managed Services Annex
<input type="checkbox"/>	Distributor Annex
<input type="checkbox"/>	Professional Services Annex
<input type="checkbox"/>	Technology Partner Annex
<input type="checkbox"/>	Referral Only Annex

From time to time, the parties may agree upon additional terms and conditions that relate to products or services Zenoss will provide to Partner after the Effective Date of this Agreement. The parties will set forth such additional terms and conditions in one or more additional Annexes that reference this Agreement and contain the specific terms and conditions applicable to such services. The parties will sign an amendment to incorporate each such Annex into this Agreement. Each Annex agreed upon by the parties, whether on the Effective Date or by a subsequent amendment, shall constitute a part of this Agreement.

IN WITNESS WHEREOF, the parties, through their respective duly authorized officers, have executed this Agreement effective as of the Effective Date.

**Effective Date:** \_\_\_\_\_ (to be completed by Zenoss)

**Zenoss, Inc.**

**[insert full legal name of Partner]**

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Title:

Title:

Date Signed:

Date Signed:

## General Terms and Conditions

1. Definitions. Capitalized terms used in this Agreement have the meaning given on Exhibit A (Defined Terms).

2. Appointment

2.1 Appointment. Zenoss may authorize Partner to perform the activities set forth in the applicable Annex and entering into an addendum with Partner substantially in the form of Exhibit B (Appointment) (an "Appointment"). Nothing in this Agreement requires Zenoss to enter into an Appointment or requires Partner to accept an Appointment, but any Appointment that is entered into by the parties is subject to the terms and conditions of this Agreement. Zenoss may make any Appointment conditional on additional terms or limitations stated in the Appointment.

2.2 Partner Program Levels. Zenoss established a partner status level program under which it offers additional discounts, market development funds and other benefits for its partners who meet certain program criteria. For example, Zenoss offers additional discounts to partners who qualify for Gold or Platinum status levels by making revenue commitments, completing certain training and staffing requirements and other specified criteria. Zenoss may change the terms of any program from time to time in its sole discretion by providing Partner with reasonable advance notice of the change; provided that any program change to discounts or marketing development funds will not apply to any Registered Opportunity or any marketing activity expense incurred by Partner in compliance with the program prior to the effective date of the change.

2.3 Revocation of Appointment. Zenoss may revoke an Appointment at any time in Zenoss' sole discretion by giving written notice to Partner. On notice of revocation, Partner shall immediately cease all marketing and sales efforts with respect to the Products, Reseller, Managed Services, Referrals or Professional Services, provided that, unless Zenoss has also terminated the Agreement for Partner's breach as provided in Section 5 (Term and Termination), Partner may: (i) continue to pursue any Registered Opportunity and place an Order with respect to the Registered Opportunity, and (ii) complete the order process with respect to any Order for Products that is in process as described in applicable Annex (i.e. Orders).

3. General.

3.1 Marketing. Partner may not use or authorize the use of any Marketing Materials in connection with its activities under this Agreement other than those provided by Zenoss or approved by Zenoss in advance in writing. Partner may not represent to any person orally, in writing, or otherwise that the Products have any features, functions, or other qualities other than those described in the Documentation or in Zenoss provided or approved Marketing Materials.

3.2 Conduct. Partner will conduct its business in compliance with applicable law and its posted privacy policy, and will market and sell the Products and Partner Professional Services ethically and in a manner that reflects favorably on Zenoss' reputation. Specifically, but without limitation, Partner will comply with applicable export laws, the U.S. Foreign Corrupt Practices Act, and the U.K. Anti-Bribery Statute, or any similar law of another jurisdiction, as applicable. Partner will not make negative comments about Zenoss or its products or services, orally or in writing, to any End User or Opportunity, or in any public forum.

3.3 Partner and Affiliates Purchases for Internal Use. Partner agrees that it will not purchase Products for its own internal business use or market or sell Products to its affiliates without Zenoss' prior written consent. For purposes of this Subsection, the term affiliate should be broadly construed to include any person (individual or legal entity) that controls, is controlled by, or is under common control with the Partner, any individual who is an officer, director, significant shareholder, member, manager or similar official of any of them, and any entity controlled by that individual.

3.4 Support. Partners who are authorized to provide Technical Assistance to End Users must provide Technical Assistance to Zenoss' reasonable quality standards communicated to Partner from time to time.

3.5 Partner Portal. If Zenoss provides Partner with access to a secure online partner portal, Partner will use reasonable care to maintain the confidentiality of its user name, password or other portal access credentials. Partner acknowledges that any information on the portal is Confidential Information of Zenoss protected under Section 7 (Confidential Information).

3.6 Insurance. During the Term and for one year following expiration or termination of the Agreement, Partner shall maintain at its expense insurance that complies with applicable law or regulations, and that meets Zenoss reasonable requirements posted on the partner portal or communicated to Partner from time to time.

4. Fees and Payment.

4.1 Annual Program Fee. Partner shall pay Zenoss an annual program fee of One Thousand Nine Hundred and Ninety Five Dollars (\$1,995.00), with the first year's fee to be invoiced on or after the execution of this Agreement, and the fee for each subsequent year of the term to be invoiced on or after each anniversary of the Effective Date. Zenoss may increase the program

fee for any year by giving Partner written notice of the fee increase at least forty-five (45) days prior to the anniversary of the Effective Date.

4.2 Fees for Products. Fees stated in an Order are due at the time stated in the Order. Partner is responsible for payment of all amounts due under an accepted Order regardless of whether it collects any related amount from the End User.

4.3 Payment Terms. Zenoss may charge interest on overdue amounts at the lesser of 1.5% per month, or the highest non-usurious rate permitted under applicable law. If any amount is overdue by more than 30 days and Zenoss brings an action to collect the overdue amount, then Zenoss may also collect its reasonable costs of collection, including court costs and reasonable attorney fees. All fees stated in the Agreement are exclusive of sales, use, VAT and like taxes ("Sales Taxes") unless otherwise indicated. Partner shall submit to Zenoss all Sales Taxes on the payment terms applicable to the underlying fees. If Partner is required to withhold any part of the payment of a fee to Zenoss as a withholding tax, then the fee shall be adjusted such that the net amount received by Zenoss is equal to its fee prior to the deduction of the withholding tax. Unless otherwise expressly agreed in writing, each party is responsible for the travel expenses of its personnel. If a party agrees to reimburse or pay travel expenses of the other party's personnel, then the obligation extends only to such expenses that are reasonable and are evidenced by customary documentation.

## 5. Term and Termination.

5.1 Term. This initial term of this Master Partner Agreement (the "Initial Term") begins on the Effective Date and continues until the first anniversary of the Effective Date. Upon expiration of the Initial Term, this Master Partner Agreement will automatically renew for successive renewal terms of one year each (each a "Renewal Term") until either Zenoss or Partner gives the other a written notice of non-renewal at least thirty (30) days prior to the expiration of the Initial Term, or then-current Renewal Term, as applicable.

5.2 Termination for Convenience. Either party may terminate this Master Partner Agreement without cause at any time in its sole discretion, provided that a termination for convenience under this subsection shall not terminate either party's rights or obligations under an Order or SOW executed prior to the effective date of the termination, and Partner may continue to pursue Registered Opportunities as described in (Opportunity Registration) in the applicable Annex.

5.3 Termination for Breach. Either party may terminate this Master Partner Agreement if the other party is in material violation of the Agreement and the violation is either un-curable or the party in violation fails to cure the violation within thirty (30) days of the other party's written notice describing the violation in reasonable detail.

5.4 Effect of Termination. Partner's Appointment(s) and Partner's authorization to use Zenoss Marks are automatically terminated on termination of this Agreement and Partner shall immediately stop its marketing and sales efforts. Termination of this Agreement does not have the effect of terminating any EULA or any Zenoss obligation to provide Support or Professional Services to an End User under a Support Plan or SOW entered into prior to the effective date of termination. Partner shall continue to provide technical assistance as required under Partner's contractual commitments and practices in effect prior to termination of this Agreement for the remaining term of any contractual commitment. Partner shall not renew any technical assistance commitment but shall refer its end users to Zenoss for purchase of a Support Plan. If this Agreement is terminated by Zenoss for breach, Zenoss may, at its option, also terminate any development license agreement between Zenoss and the Partner.

5.5 Survival of Certain Terms. The following sections survive termination of the Agreement: Section 1 (Definitions) to the extent any defined term is used in another surviving section, this Section (Term and Termination), Section 6 (Intellectual Property), Section 7 (Confidential Information), Section 8 (Limit on Liability), Section 9 (Relationship Between the Parties), Section 10 (Indemnification), Section 11 (Notices), Section 12 (Governing Law, Disputes), Section 13 (Miscellaneous) and any other section that by its nature is intended to survive expiration or termination of this Agreement.

## 6. Intellectual Property.

6.1 Reservation of Rights. Partner may not use the Software except as expressly authorized in this Agreement. Except for the license rights expressly granted in this Agreement, Zenoss retains all rights in its Intellectual Property.

6.2 Trademarks. Partner may use Zenoss' Marks as authorized from Zenoss in writing from time to time. Partner must comply with Zenoss' Trademark Usage Guidelines published on its partner portal or otherwise communicated to Partner, as they may be modified from time to time. Partner's use of the Zenoss Marks is subject to the conditions and requirements of the Trademark Usage Guidelines. Partner's license to use the Zenoss Marks is non-exclusive, revocable, non-transferable, and non-sublicenseable. Zenoss may revoke Partner's license to use any Zenoss Mark at any time in Zenoss' sole discretion, on oral or written notice. Partner's license to use the Zenoss Marks automatically terminates on expiration or termination of this Partner Agreement. On termination of the license to use the Zenoss Marks, Partner will immediately cease using the Zenoss Marks, and will return or destroy all Marketing Materials bearing the Zenoss Marks as requested by Zenoss. Partner acknowledges that Zenoss retains the

right to supervise the details of Partner's use of the Zenoss Marks, including the color, size, graphic quality of the display, information with which the Mark is displayed, placement relative to other information with which the Mark is displayed, and other matters within Zenoss' sole discretion. On Zenoss' request, Partner will substitute a new logo or other graphic provided by Zenoss as a replacement for a previously authorized Mark. Partner may not alter the Zenoss Marks. Partner may not use any abbreviation, sign, symbol or other indicia to identify Zenoss other than Zenoss Marks expressly and explicitly authorized for Partner's use. Partner agrees that it will not attempt to register any Zenoss Mark, or any name, logo or other indicia that is confusingly similar to a Zenoss Mark, in any jurisdiction in the world, will not use a Zenoss Mark in a way that suggests a general Zenoss endorsement of its activities, and will not knowingly impair a Zenoss Mark. Partner acknowledges any goodwill generated by its use of a Zenoss Mark anywhere in the world inures to Zenoss. Except for the rights expressly granted in this Section or the Zenoss Trademark Usage Policy, Zenoss retains all, right, title and interest in and to its Zenoss Marks worldwide, including any non-English language version of the Zenoss Marks. Partner may use only those marketing methods expressly approved by Zenoss. Specifically, but without limitation, Partner may not market the Products or the Partner Services via any bulk email campaign or other bulk communication.

6.3 Partner Created Zenoss Technology. The term "Partner Created Zenoss Technology" means any of the following information or materials and all related Intellectual Property that are created by Partner, whether created solely or jointly with an End User or other third party, excluding only the End User's Pre-Existing Intellectual Property (as that term is defined in the EULA) and Zenoss Pre-Existing Intellectual Property (as that term is defined below): (i) an extension or utility designed for use with the Software, (ii) a tool useful in managing data processed by the Software (such as a visualization or workflow tool), (iii) a technology that is designed to extend or enable the Software's functionality or the use of the Software; and (iv) Documentation regarding any of the foregoing. Partner will own the Partner Created Zenoss Technology, subject to Zenoss' license right stated below. "Zenoss Pre-Existing Intellectual Property" means Zenoss' Intellectual Property that existed prior to the Effective Date of this Agreement, or that was created by Zenoss during the Term of this Agreement, either alone, or jointly with Partner or the End User or any other person. For avoidance of doubt, Partner is not authorized to modify the Software or create derivative works of the Software.

6.4 Zenoss' License to Use Partner Created Zenoss Technology. Partner hereby licenses Zenoss to make, have made, use, sell, offer for sale, import, copy, reproduce, display, perform, modify, create derivative works, distribute, commercialize, exploit, and otherwise dispose of in any manner now known or in the future discovered, the Partner Created Zenoss Technology on a non-exclusive, perpetual, royalty free, fully-paid, irrevocable, worldwide, unconditional, fully transferable basis.

6.5 Other Zenoss Materials. Partner's use of the Software, Marketing Materials, Marks and Confidential Information are subject to terms and conditions stated in other sections of this Partner Agreement. Any information or materials provided by Zenoss to Partner in connection with the Agreement that are not Software, Marketing Materials, Marks, or Confidential Information are "Other Zenoss Materials" subject to the terms and conditions stated in this Subsection. Partner is licensed to use Other Zenoss Materials on a non-exclusive, revocable basis, solely for use in marketing and selling the Products or providing the Partner Services. Partner may transfer and sublicense the Other Zenoss Materials to its authorized subcontractors as described in Subsection 13.1 (Miscellaneous/Assignment, Subcontractors), and if the Other Zenoss Materials have been released on a "generally available" basis by Zenoss, to its End Users, subject to the terms of the EULA. Partner may not otherwise transfer or sublicense the Other Zenoss Materials.

## 7. Confidential Information.

7.1 Definition of Confidential Information. Information disclosed by a party or its affiliates (the "Discloser") to the other party or its affiliates (the "Recipient") regarding the Discloser's assets, liabilities, financial results, financing plans, business strategies, pricing, discounts, product development plans, marketing strategies, operations, source code, technology, know-how, trade secrets, customers, Channels, contractors, suppliers, employees and other personnel, and all other information that the Recipient should reasonably understand to be confidential, due to the nature of the information or the circumstances of its disclosure, is "Confidential Information" of discloser, regardless of the form or manner in which it is disclosed, and regardless of whether the information is marked or designated as confidential. Partner acknowledges that the terms of this Agreement are Confidential Information of Zenoss.

7.2 Exceptions to Definition of Confidential Information. Information that would otherwise be Confidential Information under this Agreement shall not be Confidential Information if the information: (i) becomes publicly known through no fault of Recipient, (ii) was rightfully known by Recipient, or in Recipient's possession, before Discloser's disclosure as evidenced by Recipient's written business records; (iii) is disclosed to Recipient by a third party who, to Recipient's knowledge, acquired the information without violation of law or contract, and who does not have an obligation of confidentiality to Discloser with respect to the information; or (iv) is independently developed by Recipient without any use of, access to, or reference to the Confidential Information of Discloser as evidenced by Recipient's written business records.

7.3 Use and Disclosure. The Recipient shall not disclose Discloser's Confidential Information except to Recipient's employees, and to third parties who need to know the information to represent or advise the Recipient with respect to the subject matter of this Agreement, provided that all employees and third party recipients must be bound by written confidentiality obligations covering the Confidential Information that are at least as stringent as those stated in this Agreement. Recipient shall not use the Confidential Information except in connection with the performance of its obligations or exercise of its rights under this Agreement. Specifically, but without limitation, Partner may not use Zenoss' Confidential Information to create any technology or other Intellectual Property that is useful other than with the Software Product. However, Recipient shall not be in violation of this Section if it discloses or uses Discloser's Confidential Information to comply with a legal requirement, such as a subpoena or preservation order, or to bring or defend a claim in an adjudicatory proceeding, provided that Recipient has limited its disclosure to only that Confidential Information reasonably necessary in light of circumstances, and has given Discloser reasonable advance notice of the disclosure or use (unless such notice is prohibited by law). Recipient will use reasonable care to protect the Confidential Information from unauthorized use and disclosure. Recipient shall return or destroy the Confidential Information upon expiration or termination of this Agreement or earlier on Discloser's request, provided that Recipient may retain the Confidential Information as part of its reasonable and customary business records. On Discloser's request, Recipient shall certify its compliance with the preceding sentence. Recipient is responsible for a breach of this Section by its agents or representatives.

8. Limit on Liability. The maximum liability of Zenoss and any of its employees, agents, affiliates, licensors, or suppliers, under any theory of law (including breach of contract, tort, strict liability, and infringement) for harm to Partner arising from or related to this Agreement shall be the amount paid and payable by Partner under Section 8 of this Agreement, and in no event shall any of them be liable for any consequential, exemplary, special, indirect, incidental or punitive damages, including any lost profit or lost savings (whether resulting from impaired or lost data, software or computer failure or any other cause), even if Zenoss has been advised of or should be aware of the damages and even if any warranty fails of its essential purpose.

9. Relationship Between the Parties. Partner does not have any right of exclusivity with respect to the Territory, the Zenoss Products, the Partner Professional Services or any other aspect of its relationship with Zenoss. Zenoss may market and sell any of its products or services, including the Products as defined in this Agreement, in the Territory either directly or via Channels, provided that Zenoss will not solicit Partner's Customers to purchase Software Products, Support or Services directly from Zenoss or from another partner during the Term. Unless Partner is designated as a Distribution Partner in the Appointment, Partner may market and sell the Products and Partner Professional Services only to persons who intend to use the Products or Partner Professional Services for their internal business purposes. Partner may not offer the use of the Software Product on a hosted basis without Zenoss' prior written consent. Partner may not sell, distribute, or authorize the sale or distribution via any Channel unless the Partner's Appointment expressly states that Partner is a Distributor or a Distribution Partner. The parties are independent contractors. Neither party is the agent of the other party; and neither party has the authority to bind the other party to any agreement.

10. Indemnification. Partner will indemnify and hold harmless Zenoss and its employees, agents, affiliates and suppliers from any damages, liabilities, judgments, fines, penalties, costs, and expenses (including reasonable attorney fees) that arise from or relate to any claim brought by or through a Partner's End User, customer or other third party claim alleging Partner's breach of this Agreement, violation of law, negligence, or misconduct. At Zenoss' request, Partner will defend an indemnified claim at Partner's expense.

11. Notices. The parties address for notice purposes appear in the Agreement preamble. Notices under this Agreement must be given by electronic mail with a copy transmitted via first class United States mail (or if Partner is located outside of the United States, a reputable and established international priority mail service) on the date of the electronic mail notice. Notices are deemed given, received and effective as of the time transmitted by electronic mail, or if that time does not fall within a business day, as of the beginning of the first business day following the time transmitted. Notices must be given in the English language. A party may change its address for notice by giving notice in the manner stated in this Section.

12. Governing Law, Disputes. This Agreement shall be governed by and interpreted under the laws of the State of Texas and the United States of America, as applicable, without giving effect to any conflicts of law principles that would require the application of the law of a different jurisdiction. The parties expressly and irrevocably disclaim and waive the application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Act. The parties agree that any lawsuit or other action related to this Agreement shall be brought in Travis County, Texas, and that neither of them shall dispute the personal jurisdiction of such court. To the extent permitted by law, each party waives the right to a trial by jury in respect of any litigation arising out of or related to this Agreement or the parties' activities in connection with this Agreement.

13. Miscellaneous.

13.1 Assignment, Subcontractors. Neither party may assign this Agreement without the prior consent of the other except that Zenoss may assign the Agreement as part of a transaction by which it transfers all or substantially all of its assets without Partner's

consent. Partner may not use subcontractors to provide Services without Zenoss' prior written consent, except for individual subcontractors who are under Partner's direct supervision and who have signed written agreements assigning all rights in their work and related Intellectual Property to Partner.

13.2 Publicity. The parties contemplate they shall cooperate in good faith to issue appropriate publicity consistent with program criteria.

13.3 Warranty Disclaimer. Unless otherwise expressly stated in an Order, Zenoss makes no representation or warranty regarding the Products and each of them are provided AS IS WITH ALL FAULTS. Zenoss does not warrant that Partner's use of the Software will be error free, uninterrupted or completely secure. Zenoss disclaims any implied or statutory warranties, such as a warranty of merchantability, fitness for a particular purpose, lack of malware, and non-infringement, and disclaims any warranty that may arise from a course of dealing.

13.4 Modifications. Except as otherwise provided above, this Partner Agreement may be modified only by a written document that expressly refers to this Agreement by name and date and is signed by the parties. No right or remedy arising in connection with this Agreement shall be waived by a course of dealing between the parties, or a party's delay in exercising the right or remedy. A party may waive a right or remedy only by signing a written document that expressly identifies the right or remedy waived. Unless expressly stated in the waiver, a waiver of any right or remedy on one occasion will not be deemed a waiver of that right or remedy on any other occasion, or a waiver of any other right or remedy. The pre-printed terms of the parties' business forms shall be of no force or effect whatsoever.

13.5 Severability. In the event one or more of the terms of this Agreement are adjudicated invalid, illegal, or unenforceable, the adjudicating body may either interpret this Agreement as if such terms had not been included, or may reform such terms to the limited extent necessary to make them valid, legal or enforceable, consistent with the economic and legal incentives underlying the Agreement.

13.6 No Third Party Beneficiaries. Unless and to the extent specifically stated otherwise in some other section of this Agreement, there are no third-party beneficiaries to this Agreement. Neither party's customers, end users, suppliers or other person shall have the right to enforce this Agreement.

13.7 Execution. This Agreement may be signed in multiple counterparts, which taken together shall be read as one Agreement. A signed agreement transmitted by facsimile, email attachment, or other electronic means shall be considered an original. The parties agree that electronic or digital signatures shall be given the same effect as a manual signature. The pre-printed terms on the Partner's purchase orders or other business forms shall have no effect whatsoever.

13.8 Non-exclusive. Either Party is free to enter into agreements, similar or otherwise, with others and to conduct its business without restriction.

13.9 The Parties agree to comply with all applicable laws, including, without limitation, the U.S. Foreign Corrupt Practices Act of 1977 and any other applicable anticorruption laws or regulations. The Parties agree to comply fully with all relevant export laws and regulations, including but not limited to the U.S. Export Administration Regulations and regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), as amended from time to time (collectively, the "Export Control Laws"). The Parties agree not to export or re-export their respective products to any parties located in Iran, Cuba, North Korea, Syria, Sudan or any other countries prohibited under U.S. embargoes or sanctions programs maintained by the OFAC or otherwise prohibited under the Export Control Laws. The Partner must obtain the written permission of Zenoss for any activities or licensing related to the Zenoss Products for the countries outside the designated Territory set forth in this Agreement.

This Agreement is the complete and exclusive agreement between the parties regarding its subject matter and supersedes and replaces in its entirety any prior or contemporaneous agreement or understanding regarding the subject matter of this Agreement, written or oral.

Intending to be bound by the terms of this Agreement, the parties execute this Master Partner Agreement as of the Effective Date.

## **Exhibit A**

### **Defined Terms**

The following terms have the meaning given in the EULA: **Deliverables, Documentation, Maintenance, Managed Resource, Severity Level, Software, Software Product, and technical assistance.**

**Agreement** means collectively: (i) this Zenoss Master Partner Agreement and all applicable Annex, exhibits, appendices, attachments, (ii) each Appointment, (iii) any content posted by Zenoss on its secure online partner portal to the extent it is expressly referenced in this Agreement or an Appointment, (iv) each Order, and (v) each SOW signed by Zenoss and Partner, as any of them may be modified from time to time in accordance with this Master Partner Agreement.

**Appointment** has the meaning given in Section 2.1 (Appointment).

**Channel** means: (i) any intermediary between Zenoss and the End User other than Partner through which orders for Products or Services are placed, and (ii) any person other than Partner to whom any commission or other value is paid in consideration for the sale of Products or Services, but excluding in each case employees or other individuals under the direct control and supervision of Zenoss or Partner. Examples of a Channel are distributors, partners, value-added partners or VARs, independent sales agents, referral partners, OEMs, embedded software license distributors, managed services providers, and cloud services providers.

**Effective Date** means the effective date stated on the signature page of this Master Partner Agreement, or if no effective date is stated, the date of last signature on this Master Partner Agreement.

**End User** means a person that is licensed by Zenoss to install and use the Software for internal business purposes, either through Partner's sale of a Software Product as permitted by this Agreement, through a direct license purchase from Zenoss, or through a license purchase from another authorized Zenoss Channel.

**End User Documentation** means the generally available commercial release of the Documentation for a Software Product.

**EULA** means the Zenoss End User License Agreement attached to the Software Reseller Annex as Exhibit A (End User License Agreement).

**Initial Term** has the meaning given in Section 5.1 (Term and Termination).

**Intellectual Property** means any right recognized as intellectual property in any jurisdiction worldwide, or any information or materials eligible for recognition as intellectual property with the passage of time, filing of an application, or other event. Examples of Intellectual Property include copyrights, trade secrets, patents, Marks, moral rights, the right to make a governmental application to register or issue any of them, and the right to prosecute an infringement action in respect of any of them.

**Mark** means a trademark, services mark, trade name, trade dress, or similar identifying indicia.

**Marketing Materials** means any information or material used to market or promote the Products or Services, whether in print, digital, audio, video or any other form or media. Examples of Marketing Materials are: advertisements, web content, web banners, web links, data, test results, white papers, survey results, trade show exhibits, shirts, hats, cups, golf balls, pens, food wrappers, and printed matter.

**Opportunity** has the meaning given in the Software Reseller Annex and Software Referral Annex (*Opportunity Registration*).

**Opportunity Notice** has the meaning given in the Software Reseller Annex and Software Referral Annex (*Opportunity Registration*).

**Order** has the meaning given in Software Reseller Annex and Software Referral Annex (*Orders*).

**Product** means: (i) licenses for the Software Products, (ii) Support Plans, and (iii) Zenoss Professional Services that are either listed on the Product List or are authorized for resale via a written authorization signed by a Zenoss officer.

**Product List** means the list provided to Partner by Zenoss from time to time that includes the names and other information (SKU, list price, suggested retail price) of the Zenoss Products that are available for order under this Agreement, as it may be amended pursuant to Software Reseller Annex (*Product List*).

**Professional Services** means implementation, training, configuration, customization, development, or other services provided to an End User in connection with the Software.

**Renewal Term** has the meaning given in Section 5.1 (Term and Termination).

**Services** means Zenoss Support and Zenoss Professional Services.

**Statement of Work** or **SOW** means an agreement between an End User or Managed Services Customer and Zenoss or the End User or Managed Services Customer and Partner, as applicable, for Professional Services.

**Support Plan** means a contractual commitment to provide technical assistance or maintenance, or both, to a set of defined criteria, such as support hours and response times, for a certain term.

**Term** means the Initial Term and any Renewal Term, collectively.

**Exhibit B**  
**Appointment**

This Appointment is made pursuant to the Zenoss Master Partner Agreement between Zenoss, Inc. ("Zenoss") and \_\_\_\_\_ ("Partner") having an effective date of \_\_\_\_\_, 20\_\_ (the "Master Agreement"). Capitalized terms used in this Appointment that are not defined in this Appointment have the meanings given to them in the Agreement.

Appointment:

Effective as of the Effective Date stated below, Zenoss hereby authorizes the Partner as a (all applicable to be checked):

- ☐ License Reseller Partner
  - ☐ Approved
  - ☐ Silver
  - ☐ Gold
  - ☐ Platinum
  - ☐ Distributor
- ☐ With Technical Support Capability
- ☐ With Technical Support Capability
- ☐ With Technical Support Capability
- ☐ With Technical Support Capability
- ☐ Managed Service Provider
- ☐ Professional Services Provider
  - ☐ QuickStart & Extended Services
  - ☐ Advanced Services
- ☐ Technology Partner
- ☐ Referral Only

Territory in which Partner may operate under this agreement

Territory: \_\_\_\_\_

Annual New Business Revenue Goal

Net New Sales Revenue Goal: US\$ \_\_\_\_\_

Associated Partner Program Discount Levels:

Initial Subscription License Purchase	_____ %
Subscription Renewal	_____ %
Initial Perpetual License	_____ %
Initial Maintenance & Maintenance Renewal	_____ %
Zenoss Professional Services	_____ %
Zenoss Scheduled Training Courses	_____ %
Zenoss Managed Services Provider	_____ %

Partner's Designated Sales Champion:

Partner's Designated Technical Champion:

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

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

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

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

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

#### Additional Terms and Conditions

This Appointment is made on the following additional terms and conditions (Zenoss to insert any additional requirements if applicable):

#### Acceptance of Appointment

Partner accepts the appointments indicated above and acknowledges that the appointments are made subject to the detailed terms and conditions stated in the Agreement.

**Effective Date:** \_\_\_\_\_ (to be completed by Zenoss)

**Zenoss, Inc.**

***[insert full legal name of Partner]***

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Title:

Title:

Date Signed:

Date Signed: