

## ZENOSS TECHNOLOGY PARTNER AGREEMENT

This Zenoss Technology 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.

### RECITALS

**WHEREAS**, Zenoss is engaged in the business of licensing, installing and customizing its monitoring management software products (the “**Software**”) for its customers; and

**WHEREAS**, Zenoss and Partner contemplate that they wish to participate in the exchange of technology to ensure a more complete integration of the two companies technologies for their respective end user customers and prospective customers; and

**WHEREAS**, Zenoss desires to retain Partner, and Partner desires to be retained by Zenoss, as a Partner to provide the exchange of technology in accordance with the terms of this Annex issued under the 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:

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Agreement and other good and valuable consideration, the parties, intending to be legally bound, agree as follows:

## 1. **Definitions.**

“**Affiliate**” means any entity which controls, is controlled by, or is under common control with a Party, where “control” means the legal, beneficial or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity.

“**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.

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

“**Initial Term**” has the meaning given in [Section 6.1 \(Term and Termination\)](#).

“**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.

“**Partner Products**” means Partner’s proprietary products and/or services.

“**Product**” means: (i) licenses for the Software, (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 under this Agreement.

“**Renewal Term**” has the meaning given in [Section 6.1 \(Term and Termination\)](#).

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

“**Zenoss Products and Services**” means certain software products, services and projects developed and owned by Zenoss, its Affiliates and their licensors, as the same may be modified by Zenoss, its Affiliates and their licensors from time to time.

## 2. **Grant.**

2.1 Zenoss hereby grants Partner a non-exclusive right to market, promote and demonstrate the Zenoss Products to End Users. Partner hereby grants Zenoss a non-exclusive right to market, promote and demonstrate the Partner Products. Unless the appropriate documents and provisions are mutually agreed upon by the parties, neither Party shall, however, make any offer to or enter into any agreement with a potential End User with respect to the other Party’s products, but will refer potential End Users to the other Party. Each Party shall have access to and is entitled to provide a potential End User with official Marketing Material regarding the other Party’s products.

2.2 Each Party shall use reasonable efforts to keep the other Party generally informed of its marketing and promotion activities relating to the other Party’s products. The Parties may only use marketing and promotional material provided by the other Party when performing marketing and promotion activities relating to the other Party’s products. The Parties are aware of the fact that: (a) each Party is marketing and promoting their respective products and services on a worldwide basis; and (b) each Party has engaged or may in the future engage other partners in any territory to perform the same or similar services as set out in this Agreement. Each Party shall exercise its rights under this Agreement in accordance with the terms and conditions contained herein, and shall conduct itself with the skill and care of a reputable firm or independent contractor within the Party’s field of business. Neither Party shall make representations or warranties on behalf of the other Party, represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other Party, or represent that the other Party is responsible, in contract or otherwise, beyond those obligations specifically undertaken by the other Party in this Agreement.

## 3. **License**

3.1 Zenoss hereby grants Partner a non-exclusive, non-transferable, royalty free, revocable license during the Term of the Zenoss Master Partner Agreement to use a reasonable number of copies of the Zenoss Products to be made available to Partner by Zenoss, at Zenoss’s discretion, solely for the purpose of evaluating, testing, certifying, marketing, promoting and demonstrating the Zenoss Products solely in conjunction with the Partner’s Products. Partner hereby grants Zenoss a non-exclusive, non-transferable, royalty free, revocable license during the Term of the Zenoss Master Partner Agreement to use a reasonable number of copies of

the Partner Products to be made available to Zenoss by Partner, in Partner's discretion, solely for the purpose of evaluating, testing, certifying, marketing, promoting and demonstrating the Partner Products solely in conjunction with the Zenoss Products. Neither Party will use the other Party's products to process any data in a production environment or otherwise make commercial use or offer to make commercial use of the other Party's products.

3.2 Partner shall retain ownership to the Partner Products and derivative works thereof and Zenoss shall retain ownership of the Zenoss Products and derivative works thereof. Nothing in this Agreement shall confer any rights in either Party's intellectual property except as expressly provided for herein. Neither Party shall: (a) copy or manufacture the other Party's products or any portion thereof; (b) translate, modify, adapt, enhance, extend, decompile, disassemble or reverse engineer the other Party's products; (c) sublicense or transfer the other Party's products to any third party; (d) use the other Party's products to provide any facility management or bureau service or otherwise use the other Party's products to process the data of any third party, except as specifically provided herein; (e) export the other Party's products in contravention of any applicable export regulations; (f) create, develop, license, acquire, use, or deploy any third party software or services to attempt to disable license keys in the other Party's products; or (g) disclose the results of any benchmark test of the other Party's products to any third party without the other Party's prior written approval.

3.3 Each Party shall make commercially reasonable efforts to provide maintenance and support solely for the interoperability of their respective products in accordance with such Party's then-current maintenance and support policy; however no support for any third party, including but not limited to customers and partners, shall be provided under this Agreement. Furthermore, to enable each Party to exercise the rights granted in this Agreement, each Party shall make available to the other Party access to such Party's partner website or portal as is necessary to fulfill this Agreement.

3.4 The products of each Party may contain or be provided with certain third-party proprietary or open source code. Such third-party or open source code is licensed under the terms of the applicable license conditions and/or copyright notices that can be found in the license file, the related documentation or other materials accompanying the products. Each Party represents that it will comply fully with the terms and conditions of the applicable third party or open source license terms. Neither party shall use open source software in such a way as to subject any source code thereof of the other party to the provisions of any standards organization or Open Source Code license which could: (i) require or condition the use or distribution of such source code; (ii) require the license of any of the other party's products and services or any portion thereof for the purpose of making modifications or derivative works; (iii) require the distribution of such source code or any portion thereof without charge; (iv) require or condition the disclosure, licensing or distribution of any such source code, any of the other party's products and services or any portion thereof; or (v) otherwise impose a limitation, restriction or condition on the right of the other Party or any of its wholly owned subsidiaries to distribute any of the other Party's products and services or any portion thereof.

#### **4. Cooperative Activities.**

4.1 We both agree to allocate and apply sufficient resources and qualified personnel to meet our obligations hereunder. At a minimum you agree to send two (2) professional staff members to Zenoss for Integrator's training at our Austin Texas training facility, within 60 days of the Effective Date of this Agreement.

4.2 Each of us will provide the other with our current and available sales brochures and other sales literature generally made available to its prospects and Users, in reasonable quantities.

4.3 Each of us will provide the other with a profile of our products and services. Subject to review and approval, each of us agrees to post the other's profile on our public web sites ("Party Profile"). Each of us may use the other's Marks for the sole purpose of the Party Profile. Any other reproduction, distribution, or use of the Marks must be approved in advance by the owning party.

4.4 Each of us will name a designated contact for this Agreement, and fill in the contact information in Exhibit A. You also agree to complete the description of your Professional Service Offering in Exhibit A.

4.5 Neither Party is authorized to make any representation, warranty, endorsement or guarantees concerning the other Party's Products, their functionality, interoperability, or performance characteristics, except to the extent set forth in the marketing literature and promotional materials delivered by the other Party about the other Party's Products.

**5. Marketing.** From time to time, each Party may participate in joint promotional and marketing activities on mutual agreement and subject to resource availability. The Parties have mutually agreed to the specific joint marketing activities currently approved by the parties described in Exhibit B. From time to time we might mutually agree to other cooperative obligations or amend the current joint marketing activities. If we do so, we will state them in writing by way amendment to Exhibit B.

5.1 **Marketing Approved Materials.** 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.

5.2 Conduct. Zenoss and Partner will conduct its business in compliance with applicable law and its posted privacy policy, and will market and sell the other Party's products and Professional Services ethically and in a manner that reflects favorably on each Party's reputation. Specifically, but without limitation, Zenoss and 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.

5.3 Partner and Affiliates Purchases for Internal Use. Partner agrees that it will not utilize 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.

5.4 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).

## **6. Term and Termination**

6.1 Term. This initial term of this 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 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.

6.2 Termination for Convenience. Either party may terminate this Agreement without cause at any time in its sole discretion upon thirty (30) days written notice.

6.3 Termination for Breach. Either party may terminate this 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.

6.4 Effect of Termination. Partner's authorization to use Zenoss Marks are automatically terminated on termination of this Agreement and Partner shall immediately stop its marketing efforts.

6.5 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 6 (Term and Termination), Section 7 (Intellectual Property), Section 8 (Confidential Information), Section 9 (Limit on Liability), Section 10 (Relationship Between the Parties), Section 11 (Indemnification), Section 12 (Notices), Section 13 (Governing Law, Disputes), Section 14 (Miscellaneous) and any other section that by its nature is intended to survive expiration or termination of this Agreement.

## **7. Intellectual Property**

7.1 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 continues to retain all rights in its Intellectual Property.

7.2 Trademarks. Partner may use Zenoss' Marks in accordance with Section 4.3 and otherwise 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 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 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 Guidelines, 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.

7.3 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 a third party, 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.

7.4 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.

7.5 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 00.1 (Miscellaneous/Assignment, Subcontractors), and if the Other Zenoss Materials have been released on a “generally available” basis by Zenoss. Partner may not otherwise transfer or sublicense the Other Zenoss Materials.

## **8. Confidential Information.**

8.1 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.

8.2 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.

8.3 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 a 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.

**9. 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 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.

**10. 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.

**11. 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.

**12. 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.

**13. 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.

**14. Miscellaneous.**

14.1 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.

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

14.3 Warranty Disclaimer. Unless otherwise expressly stated, 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.

14.4 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.

14.5 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.

14.6 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.

14.7 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.

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

14.9 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.

**Exhibit A**  
**Professional Service Offering and Contact Information**

**Partner Professional Services Offering description:**

**Contacts**

Partner’s Designated Contact:

Zenoss’ Designated Contact:

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

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

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

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

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

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

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

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

**Exhibit B**

**Marketing**

Acceptance of Marketing Plan

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

**Zenoss, Inc.**

*[insert full legal name of Partner]*

\_\_\_\_\_

\_\_\_\_\_

Name:

Name:

Title:

Title:

Date Signed:

Date Signed: