



## EXTREME NETWORKS - PARTNER PROGRAM ENROLLMENT AGREEMENT

THIS PARTNER PROGRAM ENROLLMENT AGREEMENT (WHICH INCLUDES THE PARTNER PROGRAM GUIDE AND POLICIES REFERENCED HEREIN, COLLECTIVELY, THE "AGREEMENT") GOVERNS YOUR PARTICIPATION IN EXTREME'S PARTNER PROGRAM ("PROGRAM").

BY ACCEPTING THIS AGREEMENT EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR OTHERWISE ELECTRONICALLY INDICATING ACCEPTANCE, YOU AGREE TO THIS AGREEMENT. THE AGREEMENT WILL BECOME EFFECTIVE AS OF THE DATE WHEN YOU ACCEPT IT (THE "EFFECTIVE DATE").

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH BUSINESS ENTITY TO THIS AGREEMENT, AND THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. THE TERMS "WE" OR "US" REFERS TO EXTREME.

YOU MAY NOT PARTICIPATE IN THE PROGRAM OR HAVE ACCESS TO EXTREME'S PARTNER PORTAL IF YOU DO NOT AGREE TO THIS AGREEMENT.

YOU MAY NOT PARTICIPATE OR CONTINUE TO PARTICIPATE IN THE PROGRAM:

- (1) IF YOU ARE OR BECOME (IN WHOLE OR IN PART) A MANUFACTURER OF PRODUCTS THAT ARE IN COMPETITION WITH EXTREME PRODUCTS, OR
- (2) FOR THE PURPOSE OF MONITORING EXTREME OR FOR ANY OTHER BENCHMARKING OR COMPETITIVE PURPOSES.

FOR AVOIDANCE OF DOUBT, THIS AGREEMENT PERTAINS ONLY TO YOUR ENROLLMENT IN THE PROGRAM AND IS NOT A SALE, PURCHASE OR DISTRIBUTION AGREEMENT WITH EXTREME.

THIS AGREEMENT IS SUBJECT TO EXTREME'S PRIVACY POLICY, posted at <https://www.extremenetworks.com/about-extreme-networks/company/legal/privacy-and-cookies-policy>.

## 1. **Your Enrollment in the Partner Program.**

- 1.1 In order to become enrolled in the Program, You must complete Extreme's enrollment process and accept this Agreement. You may end Your enrollment in the Program at any time, upon providing thirty (30) calendar-days' advanced written notice to Extreme.
- 1.2 Your eligibility to receive Program benefits is conditioned upon Your ongoing compliance with this Agreement and the Program. The Program Guide will be made available to You upon the completion of Your enrollment in the Program; if You do not agree with the terms of the Program Guide, You may end Your enrollment in the Program at any time as set forth in Section 1.1 above. We retain the right to modify the Program at any time and will provide notice of Program changes on the Partner Portal, which we will make available to You. You are responsible for regularly checking the Partner Portal for Program changes. Your continuing participation in the Program shall be Your assent to such changes.
- 1.3 We reserve the right, at our sole discretion, to determine the appropriate level of Your participation in the Program and to change Your Participation Level upon thirty (30) calendar days' prior written notice if You fail to meet the requirements of the Program for Your applicable Program Participation Level.
- 1.4 We reserve the right to suspend Your access to the Program if You have not been conducting any sales activity of Extreme Products or Services in twelve (12) consecutive months.
- 1.5 **Your Affiliates.** Your Affiliates are not automatically included in the Program. Each Affiliate must accept this Agreement on its own in order to enroll in the Program. Should You and Your enrolled Affiliate(s) wish to become parent - child entities in the Program (as detailed in the Partner Program Guide), You hereby warrant and represent that You and Your Affiliate(s) are jointly and severally liable for one another's failure to comply with the terms of this Agreement.
- 1.6 **Opt-In Marketing.** Your participation in the Program will serve as an opt-in to receive our marketing communications, and You may elect to opt-out from receiving our marketing materials by contacting us.

## 2. **Resale and Internal Use Authorization.**

- 2.1 **Extreme Authorization.** Subject to the terms and conditions of this Agreement, and during the term of this Agreement, Extreme authorizes You to purchase and/or license Products and Services from an Authorized Distributor and to resell and/or redistribute such Products and Services directly to End Users within the Territory, unless prohibited by applicable local law. "Within the Territory" means that End Users must deploy the Products and/or receive the Services within the Territory. An End User may, in some cases, be another Extreme-authorized Partner so long as such Partner is purchasing the Products or Services from You for such Partner's own internal business use in the Territory. Your authorization to resell Services is also subject to the requirements of Extreme's then-current Service programs addressed on the Partner Portal.

### 2.2. **Restrictions.**

2.2.1 **No Stocking or Sale by Mail Order.** You are not authorized to stock Products for inventory purposes, nor are You authorized to resell Products by mail order or by listing Products for sale in third-party online marketplaces such as Amazon.com or ebay.com. However, You may use the Internet for the purpose of marketing Products or Services.

2.2.2 **No Resale to Extreme Competitors.** You are not authorized to resell to any entity who You

know, or should reasonably know, will use Products or Services primarily for purposes of benchmarking or similar testing or in connection with timeshare or service bureaus.

- 2.3 **Demonstration Products.** You may purchase and/or license Products and Services for Your use for customer demonstrations, evaluations, and internal lab use (“Demonstration Product”). You may not resell Demonstration Products for a period of twelve (12) consecutive months following the date of shipment from Extreme. After such twelve (12) month period, You may resell the Demonstration Products directly to End Users strictly on an “AS IS” basis (without any warranties of any kind from Extreme).
- 2.4 **Internal Use.** You may purchase Products and Services from an Authorized Distributor for Your internal use. In such instances:
- 2.4.1 You must clearly indicate on Your purchase order that You are the end user for Products ordered. Failure to indicate Your intent to purchase for internal use is a material breach of this Agreement.
- 2.4.2 All applicable terms and conditions concerning End Users, including but not limited to end user licenses and warranty, as referenced herein, shall apply to You.
- 2.4.3 You are not eligible for benefits and discounts available to Partners in the Program for Products and Services purchased for internal use.
3. **Program Benefits.** The Program benefits are described in the Partner Program Guide. Such Program benefits may have additional obligations, terms, licenses, and other requirements which You may be required to accept before becoming eligible to receive Program benefits.
4. **Access to the Partner Portal.**
- 4.1 As part of Your enrollment in the Program, we may provide to You access to the Partner Portal, which includes content in the form of information, materials and tools pertaining to Extreme’s Products and Services or to the Program.
- 4.2 Extreme grants to You a limited, non-exclusive, nontransferable, non-sublicensable right and license, while this Agreement is in effect, to access and use the Partner Portal and content therein, solely in accordance with this Section 4 and Section 10 (“Confidentiality”).
- 4.3 All content on the Partner Portal remains the property of Extreme. You may only use the Partner Portal for purposes of promoting, marketing, and reselling Extreme Products and Services and fulfilling Your role/responsibilities in the Program.
5. **Your Key Responsibilities.** All Partners enrolled in the Partner Program have the following key obligations:
- 5.1 **Provide Point of Sale (POS) Information.** You will provide timely and accurate point of sale (POS) information to Your Authorized Distributor, and promptly upon Extreme’s written request. You acknowledge that Your provisioning of accurate and timely POS information is required for order processing, validating End User entitlement(s) to Product warranty support and other Services, calculating Your Program incentives, and other business purposes, subject to applicable law.
- 5.2 **Program Training/Certifications.** Based upon the level of Your participation on the Program, Your personnel must complete and maintain certain technical and sales certifications that we offer to Partners, as part of our Program requirements.

- 5.3 **No Removal of Product Markings.** You will not alter, remove, or destroy any patent, copyright, logo, trademark, trade name, proprietary marking, confidentiality legend, serial number, or other identification code placed upon or contained within the Products or their packaging/containers, or the Services or End User Documentation supplied by Extreme. You will not affix any other mark or name to any Product or Service without Extreme's express written consent.
- 5.4. **Maintain Business Records.** During the term of this Agreement, and for a period of two years thereafter, You will maintain complete, legible, and accurate records relating to Your activities in the Partner Program and under this Agreement. At the end of this retention period, You will appropriately dispose of all records, except as may be required by applicable law. Upon our request, You will cooperate with Extreme, or persons designated by Extreme, at Extreme's cost, to review (or, if requested by Extreme, to obtain copies of) Your relevant records to validate Your compliance with this Agreement and the Program (the "Review"). Reviews shall be conducted during regular business hours and in such a manner as to not unduly interfere with Your normal business activities.
- 5.5 **Advertising.** You must accurately describe our Products/Services in all advertisements and written proposals to End User customers. Extreme may immediately suspend or terminate an order, or Your participation in the Partner Program, if You engage in deceptive, fraudulent, misleading, illegal or unethical marketing, or other activities that may cause damage, embarrassment, or adverse publicity to Extreme.
- 5.6 **Personal Data Provided to Extreme.** You represent and warrant that: (i) any Personal Data You provide to Extreme pursuant to this Agreement for the purpose of marketing has been collected in accordance with all applicable laws, including notice and consent requirements; (ii) providing the Personal Data to Extreme complies with all applicable laws, including applicable privacy regulations; and (iii) You have properly indicated what Personal Data may or may not be used by Extreme for marketing purposes.
- 5.7 **Compliance with Applicable Laws.** See Attachment 2.
- 5.8 **Provide Current Contact Information.** You agree to provide, and to keep updated, all contact information of the representatives of Your organization in our Partner database ("Contact Information"). You hereby grant us permission to use such Contact Information for the purposes of conducting the Program, in accordance with applicable laws. We retain the right to assign Your company to an "inactive" Partner status and/or to remove Your company's name from our database and "Find a Partner" website if, after requesting such information, You fail to provide us with any current contact information. We also retain the right to remove access to the Partner Portal of any person whose identity with Your organization either cannot be validated or when required per applicable export or other laws.
6. **Term.** This Agreement shall begin on the Effective Date and shall remain in effect unless terminated, as provided herein.
7. **Termination.**
- 7.1 **Termination without cause.** Subject to Section 7.3 below ("Effect of Termination"), either party may terminate this Agreement at any time, without cause, upon thirty (30) calendar days' prior written notice to the other party.
- 7.2 **Termination for Cause.**
- 7.2.1 Either party may immediately terminate this Agreement upon written notice to the other party

if:

- (i) The other party becomes insolvent or makes any arrangement with its creditors generally, or has a receiver appointed for all or a substantial part of its business or properties, or an insolvency, bankruptcy or similar proceeding is brought by or against such other party and involving such other party as debtor, and if brought against such other party is not dismissed within sixty (60) days from its institution, or if such other party goes into liquidation or otherwise ceases to function as a going concern;
- (ii) The other party breaches its confidentiality obligations under this Agreement;
- (iii) The terminating party reasonably believes the other party has infringed or misappropriated the terminating party's intellectual property rights;
- (iv) A party learns of circumstances that give it reason to believe in good faith that the other party has engaged in illegal conduct or unethical business practices in connection with performance of this Agreement;
- (v) The other party, or any of its owners/principals or employees who are primarily responsible for performance of the obligations under this Agreement have become the target of investigation or prosecution by any governmental authority for alleged corruption or other violations of laws;
- (vi) The other party has failed to comply with all applicable laws, including but not limited to laws and regulations specified in Attachment 2; or
- (vii) The other party has publicly announced (including reports made to the U.S. Security and Exchange Commission) that it has reached an agreement to acquire or be acquired by a direct competitor of the terminating party.

7.2.2 For breaches not covered by Subsection 7.2.1 above, if one party breaches its obligations under this Agreement (the breaching party), the other party (the non-breaching party) may terminate this Agreement for cause if the non-breaching party has provided written notice of the breach to the breaching party, and the breaching party has failed to cure the breach.

7.3 **Effect of Termination.** Upon the termination of this Agreement, for whatever reason:

- (i) Your status as a Partner will immediately terminate, along with Your entitlement to receive Program Benefits.
- (ii) Each party's entitlement to use the other party's Marks (see Sections 9 below) shall cease and each party shall promptly remove/delete the other party's name and Marks from its websites and marketing materials.
- (iii) We will notify the applicable Distributor(s) in the Territory of the Effective Date of the termination, and we reserve the right to reject orders received from a Distributor on Your behalf after the Effective Date of the termination.

## 8. **Intellectual Property Rights and Software License.**

8.1 Subject to the limited licenses and rights set forth in this Agreement, nothing in this Agreement transfers or assigns to either Party any of the other Party's Intellectual Property Rights in the other Party's technology, products, or services. Products and Services are proprietary to Extreme and its suppliers, and Extreme and its suppliers retain exclusive ownership of all Intellectual Property Rights

in and to Products or Services, including, but not limited to, Software Products and Extreme Trademarks.

- 8.2 **Grant of Rights.** Subject to the terms of this Agreement, and during the term of this Agreement, Extreme grants to You a limited, non-exclusive, revocable license to receive from an Authorized Distributor and distribute to End Users in Your Authorized Territory, the Extreme proprietary rights embodied in the Product/Services. Any distribution of Products/Services containing Extreme proprietary rights (including, without limitation, all Software) outside the scope of this Section 8.2 is prohibited to the extent permitted by law. No “sale” of any Software is conveyed.
- 8.3 **End User License Agreement.** All Software made available to You, including, but not limited to, Software downloaded from [www.extremenetworks.com](http://www.extremenetworks.com), is subject to Extreme’s End User License Agreement, published at [www.extremenetworks.com](http://www.extremenetworks.com). You shall incorporate the EULA by reference in Your commercial contracts with End Users purchasing Products and/or Services. You shall not translate, disassemble, reverse compile or reverse engineer the Products, including, but not limited to, the Software Products, in whole or in part, except to the extent such prohibition is restricted by applicable law. You shall not copy, modify, create derivative works, rent, lease, loan or use for timesharing or service bureau purposes any Products, including, but not limited to, Software Products, in whole or in part, without Extreme’s prior written consent, which approval Extreme may withhold in its sole discretion.

#### **Extreme Marks.**

- 9.1 Extreme’s marks, including those identified in Extreme’s Corporate Branding Guidelines (available on the Partner Portal) and otherwise used on Extreme’s websites, are Extreme’s trademarks or service marks (“**Extreme Marks**”) and may not be used in any manner except as expressly permitted in this Agreement, or the Program Guide and Policies, or without Extreme’s prior written consent.
- 9.2 Subject to the terms of this Agreement, Extreme grants to You a non-exclusive, non-transferable, limited license to use the Extreme Marks solely in Your advertising and promoting Products and Services, in accordance with applicable law and Extreme’s Corporate Branding Guidelines.
- 9.3 You will not adopt, use or register as a trademark, service mark, trade name, business name, corporate name or domain name or any part thereof, any word or symbol or combination thereof that is similar to any Extreme Mark.
- 9.4 You will not add or affix to any Product or its packaging any mark or designation that has not been approved by Extreme in writing. You will not in any way combine any Extreme Mark with any other mark or designation without Extreme’s prior written approval. You will not affix any Extreme Marks to any product other than the Product to which it pertains.
- 9.5 You will not have or acquire any right in or to any Extreme Marks, and Your use of any Extreme Mark hereunder, and goodwill associated therewith, will inure to the exclusive benefit of Extreme. Extreme owns the exclusive right, title and interest in and to the Extreme Marks, and You will not, directly or indirectly, in any country or location, dispute the ownership of any Extreme Marks. Only Extreme (and not You), is entitled to register Extreme Marks or similar trademarks in any class of products or services worldwide.

#### **10. Confidentiality.**

##### **10.1 Definition of Confidential Information.**

- (a) “Confidential Information” means all confidential information disclosed by one party or its

agents or employees (the Disclosing Party) in any manner, whether orally, visually or in tangible form and all copies thereof, to the other party (the Receiving Party), that is designated as confidential or that reasonably should be understood to be confidential, given the nature of the information and the circumstances of disclosure.

Confidential Information includes, but is not limited to, information related to financial data, pricing, documents, blueprints, designs, specifications, Customer information, software, sales materials, technical information, business and marketing plans, technology and technical information, and business processes, and discussions by the parties regarding the partner relationship. Extreme's Confidential Information also includes, but is not limited to, any non-public information on the Partner Portal or other systems that we make available to You.

Confidential Information does not include: does not include information that Receiving Party can demonstrate: (a) was in Receiving Party's possession prior to disclosure by Disclosing Party hereunder without restriction; (b) was generally known, in the trade or business in which it is practiced by Disclosing Party, at the time of disclosure to Receiving Party hereunder, or becomes so generally known after such disclosure, through no act of Receiving Party or its employees, subcontractors, attorneys, accountants, consultants, and independent contractors; (c) has come into the possession of Receiving Party from a third party without restriction; (d) was developed by Receiving Party independently of and without reference to Confidential Information or information that Disclosing Party has disclosed in confidence to any third party; or (e) is approved in advance for release in a written authorization signed by an officer of the Disclosing Party. If a particular portion or aspect of Confidential Information becomes subject to any of the foregoing exceptions, all other portions or aspects of such information shall remain subject to all of the provisions of this Agreement.

- (b) **As related to materials that disclose or embody Confidential Information:** the Disclosing Party shall use reasonable efforts to mark all such materials as "Confidential," "Proprietary," or the substantial equivalent thereof.
- (c) **As related to Confidential Information that is disclosed orally or visually:** the Disclosing Party will use reasonable efforts to promptly identify such Confidential Information either at the time of disclosure or to confirm in writing as to its confidential nature within a reasonable time after such disclosure.

## 10.2 Use and Protection of Confidential Information.

The Receiving Party shall:

- (a) use the Confidential Information solely in connection with fulfilling that party's role and obligations under the Program and as set forth in this Agreement;
- (b) take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Disclosing Party's Confidential Information. Such measures shall at least include the measures that the Receiving Party takes to protect its own confidential information, and which shall not be less than reasonable care;
- (c) disclose the Disclosing Party's Confidential Information only to those of the Receiving Party's employees, agents and independent contractors who have a need-to-know basis; and

- (d) require all employees, agents and independent contractors who have access to Confidential Information to execute written confidentiality agreement that contain terms that are not materially less protective of the Confidential Information than those contained in this Section 10.
- 10.3 Each party agrees to keep confidential and not to disclose the terms and conditions of this Agreement to any third party other than:
- (a) in confidence to its affiliates, actual or potential investors, banks, lawyers, accountants and other professional advisors;
  - (b) in connection with the enforcement of its rights under this Agreement;
  - (c) as may be required by law, including, without limitation, in connection with the requirements of a public offering or securities filing, and
  - (d) in confidence in connection with a merger or acquisition or a proposed merger or acquisition.

The existence of this Agreement is not confidential.

10.4 **Required Disclosure.**

The Receiving Party may disclose the Discloser's Confidential Information if required by law or by a court order or other legal process, provided that the Receiving Party promptly notifies the Disclosing Party of the required disclosure (to the extent legally permitted), and reasonably assists the Disclosing Party in obtaining a protective order or otherwise limiting such disclosure, if the Disclosing Party wishes to challenge the disclosure.

10.5 **No Warranty.** The disclosing party makes no warranties whatsoever with respect to the Confidential Information.

10.6 If Your enrollment in the Program ends, for whatever reason, the Receiving Party agrees to promptly return to the Disclosing Party, or destroy, all copies of the Disclosing Party's Confidential Information, and if requested by the Disclosing Party, to confirm in a writing signed by senior representative (at the Vice President or above level), that the Receiving Party has complied with its obligations hereunder.

11. **Warranties and Disclaimers.**

11.1 ALL EXTREME PRODUCT AND SERVICE WARRANTIES ARE MADE SOLELY TO THE END USER CUSTOMER PURSUANT TO EXTREME'S THEN-CURRENT WARRANTY TERMS AND END USER LICENSE AGREEMENT APPLICABLE TO THE PRODUCT AND SERVICES. Extreme's written product warranty terms are available at <https://www.extremenetworks.com/support/policies/>. You are not authorized to, and shall not make, any warranty commitment regarding the Products or Services *beyond* Extreme's warranty terms referenced in this Section 11.

11.2 As set forth in the Product Warranty, the End User's entitlement to warranty support is expressly conditioned upon the purchase of the Products through an Authorized Source. Upon request, You agree to promptly provide Extreme with relevant information to help validate an End User's entitlement to such warranty support.

11.3 **DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, EXTREME MAKES NO REPRESENTATIONS OR WARRANTY OF ANY KIND REGARDING THE PARTNER PROGRAM

OR THE PRODUCTS OR SERVICES, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, ABSENCE OF HIDDEN DEFECT, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTY, TERM OR CONDITION THAT MAY ARISE BY REASON OF USAGE OF TRADE, CUSTOM, COURSE OF DEALING OR COURSE OF PERFORMANCE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

12. **LIMITATION OF LIABILITY AND CONSEQUENTIAL DAMAGES WAIVER.**

12.1 EXCEPT FOR LIABILITY ARISING OUT OF OR IN CONNECTION WITH BREACH OF THE CONFIDENTIALITY TERMS IN SECTION 10 OR THE LICENSE TERMS IN SECTION 8 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL LIABILITY OF EACH PARTY AND ITS SUPPLIERS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE MONEY PAID BY YOU TO AN AUTHORIZED DISTRIBUTOR FOR THE PRODUCTS AND SERVICES DURING THE SIX (6) MONTH PERIOD PRECEDING THE FIRST EVENT OR CIRCUMSTANCES GIVING RISE TO LIABILITY. THIS LIMIT SHALL NOT APPLY TO LIABILITY FOR DEATH OR BODILY INJURY RESULTING DIRECTLY FROM EITHER PARTY'S NEGLIGENCE OR WILLFUL MISCONDUCT. ALL LIABILITY UNDER THIS AGREEMENT IS CUMULATIVE AND NOT PER INCIDENT.

12.2 **WAIVER OF CONSEQUENTIAL DAMAGES.** EXCEPT FOR LIABILITY ARISING OUT OF IN CONNECTION WITH BREACH OF THE CONFIDENTIALITY TERMS IN SECTION 10 OR THE LICENSE TERMS IN SECTION 8 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, OR LOST PROFITS, LOST BUSINESS, LOST REVENUE OR LOST SAVINGS, LOSS OF USE, LOSS OR DAMAGED DATA, OR INTERRUPTION OF BUSINESS, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY, STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY EXCLUSIVE REMEDY PROVIDED HEREIN.

13. **General Terms.**

13.1 **Notices.**

Notices. Notices shall be in writing and either delivered to the physical addresses or to the electronic mail addresses listed below.

Notice by delivery:

To Extreme: Extreme Networks, Inc., Attn: Legal Department, 6480 Via Del Oro, San Jose, CA 95119, United States

To You: Your then-current name and address that You have provided to Extreme in Your Partner profile on the Partner Portal

Notice by electronic mail:

To Extreme: [contractsadmin@extremenetworks.com](mailto:contractsadmin@extremenetworks.com)

To You: The email address You have provided to Extreme in Your Partner profile on the Partner Portal

Any notices sent to addresses set forth above will be deemed given when delivered in person, by overnight courier upon written verification of receipt, by confirmed facsimile, or by certified or registered mail, return receipt requested, five (5) days after deposit in the mail. Any notices provided via electronic mail will be deemed delivered when sent, unless the sender receives a machine-generated message stating that delivery has failed. Extreme will provide notice of Program changes on the Partner Portal.

- 13.2 **Assignment.** You may not assign this Agreement by operation of law or otherwise without Extreme's prior written approval. Extreme's rights and obligations, in whole or in part, under this Agreement may be assigned or delegated by Extreme to any affiliated company or subsidiary or in connection with a merger, reorganization, consolidation or sale of all or substantially all of Extreme's assets. This Agreement shall bind and inure to the benefit of the parties and their successors and permitted assigns.
- 13.3 **Waiver; Severability.** The waiver by either party of a breach of any provisions contained herein shall be in writing and shall in no way be construed as a waiver of any succeeding breach of such provision or the waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law or applicable court decisions.
- 13.4 **Injunctive Relief.** It is expressly agreed that a violation of Sections 8 ("Intellectual Property Rights and Software License"), 9 ("Extreme Marks"), or 10 ("Confidentiality") of this Agreement could cause irreparable harm to a Party and that a remedy at law could be inadequate. Therefore, in addition to any and all remedies available at law, a Party will be entitled to seek injunctive relief or other equitable remedies in the event of any threatened or actual violation of any or all of the provisions hereof.
- 13.5 **Controlling Law; Venue.**
- (a) The applicable law and venue for this Agreement is identified below. You consent to personal jurisdiction and venue in, and agrees to service of process issued or authorized by, such court as applicable to their location as identified below:
- When Your principal place of business is in the United States or Latin America:** This Agreement shall be governed in all respects by the laws of the State of California, USA, without regard to conflicts of law principles. All disputes arising under this Agreement shall be brought in Superior Court of the State of California in Santa Clara County or the Federal District Court of San Jose, California, as permitted by law.
- When Your principal place of business is in a country other than the United States or in Latin America:** This Agreement shall be governed in all respects by the laws of England, without regard to conflicts of law principles. English courts located in London shall have exclusive jurisdiction and venue over all controversies in connection herewith.
- (b) This Agreement is written and shall be construed in the English language. The United Nations Convention on the International Sale of Goods is hereby expressly excluded from application to this Agreement.
- 13.6 **Timing of Disputes.** All disagreements or controversies of any kind whether claimed in tort, contract or otherwise concerning this Agreement shall be brought within one (1) year after the occurrence of the event giving rise to the disagreement or controversy.

- 13.7 **No Agency/Independent Contractors.** The Parties relationship established by the Program is that of independent contractors. Notwithstanding the use of the term “Partner” in this Agreement or the Program, nothing contained herein shall be construed as creating any agency, partnership, employment relationship, fiduciary, franchise, principal-agent, or other form of joint enterprise between the Parties. There are no third-party beneficiaries to the Agreement. You shall not make any proposals, promises, warranties, guarantees or representations on Extreme’s behalf or in Extreme’s name.
- 13.8 **Force Majeure.** Neither Party will have the right to claim damages if this Agreement is terminated as a result of the other party’s failure or delay in performance due to circumstances beyond its reasonable control (except for obligations relating to fees payable under this Agreement), including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, components, raw materials or supplies, war, riot, insurrection, epidemic, natural disasters, governmental action or terrorism.
- 13.9 **Feedback.** Extreme may use any feedback You provide to Extreme about the Partner Program, the Products, the Services or Extreme Intellectual Property without any obligation to You (“Feedback”). You grant Extreme all rights, title and ownership of such Feedback, including all intellectual property rights therein. You will not acquire any rights or licenses in the Program, Products or Services or in any Extreme Intellectual Property through Your provision of Feedback to Extreme.
- 13.10 **Pricing Policy.** Extreme does not solicit or accept complaints from its Partners about other Partners’ sales or pricing practices and will not engage in any such discussions. Partners and Authorized Distributors are each free to unilaterally determine their resale prices.
- 13.11 **Sales to U.S. Government and to State/Local Governments in the U.S.** The additional terms set forth in **Attachment 3** apply regarding the resale of Extreme Products/Services to the U.S. Government and to state and local governments in the United States.
- 13.12 **Attorneys’ Fees.** If either party employs attorneys to enforce any rights arising out of, or relating to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys’ fees, cost and other expenses, including the costs and fees incurred on appeal or in a bankruptcy or similar legal action.
- 13.13 **Marketing Rights.** You agree Extreme has the express right to use Your company logo and name in sales and marketing materials such as press releases, social media, case study briefs/project summaries, Extreme’s website or brochures, and other communications solely to identify You as a Partner.
- 13.14 **Survival.** The following sections will survive any expiration or termination of this Agreement for whatever reason: Sections 5.3 (“No Removal of Product Markings”), 5.4 (“Maintain Business Records”), 7.3 (“Effect of Termination”), 8.1 (“Intellectual Property Rights and Software License”), 10 (“Confidentiality”), 12 (“Limitation of Liability and Consequential Damages Waiver”), 13 (“General Terms”), Attachment 2, Section 2 (“Export and Trade Compliance”).
- 13.15 **Enforceability.** You agree that Your representative who electronically accepts this Agreement has the capacity and authority to execute this Agreement on Your behalf. You and Extreme each waive any defense to the validity or enforceability of this Agreement arising from the electronic submission and electronic acceptance of this Agreement by You.
- 13.16 **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes, and its terms govern, all prior and all

contemporaneous proposals, negotiations, commitments, understandings, agreements, or other communications between the parties, oral or written, regarding such subject matter. Any prior agreements between Extreme and You covering the subject matter of this Agreement are hereby terminated.

*-Attachments 1, 2 and 3 follow this page-*

## Attachment 1 Definitions

In addition to the terms defined elsewhere in this Agreement, the following capitalized terms have the following meanings:

**“Affiliate”** means an entity controlled by, under common control with, or controlling, a party hereto. “Control” means owning more than fifty percent of ownership interests or voting rights of such controlled entity.

**“Authorized Distributor”** or **“Distributor”** means a distributor who is currently enrolled in Extreme’s Partner Program and who is authorized by Extreme to resell the Products and Services in an Authorized Territory.

**“Authorized Source”** means collectively a Partner and an Authorized Distributor.

**“Authorized Territory”** or **“Territory”** means the country(ies) where You are authorized by Extreme to purchase Extreme Products and Services from Authorized Distributors and resale such Products and Services to End User customers, as set forth in Your Partner record. Your initial designated Territory will be the country where Your company resides, as indicated by You during the registration process. Any change to Your Territory shall be executed in a written agreement by You and Extreme.

**“Corporate Branding Guidelines”** means the then-current Extreme branding guidelines published on the Partner Portal.

**“End User”** means the purchaser and licensee, in the case of Software, of the Products or Services for its ordinary internal business use and not for purposes of further distribution, remarketing, or resale.

**“End User Documentation”** means Product documentation, Product specifications and other related materials provided by Extreme.

**“End User License Agreement”** or **“EULA”** means Extreme’s then-current End User license agreement posted at [www.extremenetworks.com](http://www.extremenetworks.com).

**“Extreme”** shall mean the applicable Extreme Networks legal entity as follows:

- (a) **Extreme Network Ireland Ops Limited:** for Partners with a principle place of business in the European Union, Middle East, Africa, Canada or countries located in Asia-Pacific;
- (b) **Extreme Networks, Inc.:** for Partners with a principal place of business in the United States and/or in Latin America; and
- (c) **Extreme Federal, Inc.** for the resale of Products and/or Services to the U.S. Government, as the End User.

**“Extreme Marks”** means those trademarks, logos, symbols and names identified in Extreme’s Corporate Branding Guidelines.

**“Find a Partner”** web site means the Extreme’s Find a Partner web site at <https://www.extremenetworks.com/partners/find-a-partner/?show-partners=true>. Partners will be listed on the Find a Partner website upon achieving the minimum program requirements, and must continue to meet minimum program requirements to maintain listing.

**“Good Standing”** when used in connection with Extreme’s Partner Program means that the Partner is actively enrolled in the Partner Program and is meeting the Program’s training, certification, sales reporting and other requirements (applicable to all Partners enrolled in the Program), as set forth in the Program Guide.

**“Intellectual Property Rights”** mean any and all current and future (i) rights associated with works of

authorship; including but not limited to copyrights, moral rights, and mask-work rights; (ii) patent rights, rights of priority, and design rights; (iii) trade secret rights, (iv) trademark rights (including service mark rights) and trade dress rights; (v) all other intellectual and industrial property rights of every kind and nature which may exist anywhere in the world, whether registered or unregistered; and (vi) any and all applications and registrations, renewals, extensions, provisionals, continuations, continuations-in-part, divisions, reissues or reexaminations of any of the foregoing.

**“Partner”** means a reseller who is currently enrolled in Extreme’s Partner Program and who is authorized by Extreme to resell the Products and Services in an Authorized Territory. By accepting the terms of this Agreement, and meeting any other applicable Program requirements, You become a Partner.

**“Partner Portal”** means Extreme’s then-current password protected web portal at <https://extremeportal.force.com/ExtrLogin?startURL=%2FExtrPartnerLanding> that Extreme makes available to Partners enrolled in the Program, including all content posted thereunder.

**“Partner Program”** or **“Program”** means Extreme’s then-current channel partner program, described at <https://www.extremenetworks.com/partners/>, and more fully described on the Partner Portal, to which a Partner will gain access after the enrollment in Extreme’s Partner Program.

**“Personal Data”** means information provided to Extreme by Partner that: (i) identifies or can be used to identify an individual (including, without limitation), names, business addresses, telephone numbers, business e-mail addresses, or any other unique identifiers); or (ii) as defined by applicable data privacy law or regulation.

**“Price List”** means Extreme’s then-current list price applicable to the delivery location in effect at the time of order acceptance by Extreme.

**“Products”** mean Extreme’s products identified on the Price List, including (i) hardware products with embedded Software, (ii) Software Products in object code form, (iii) End User Documentation, and (iv) other materials related to the foregoing, if any, supplied to Partner in a commercial package.

**“Program Guide”** or **“Partner Program Guide”** means the then-current applicable Partner Program Guide for the Authorized Territory published by Extreme which sets forth the requirements for Partners to participate in Extreme channel programs.

**“Program Participation Level”** means the membership level in the Program that Partner may qualify under, as set forth in the Program Guide.

**“Program Policies”** mean the then-current Partner Program written policies provided by Extreme to its Partners, as set forth on the Partner Portal.

**“Services”** mean maintenance and support, professional and cloud services that Extreme generally makes available to its Partners for resale to End Users in accordance with the Partner Program Guide and the Price List.

**“Software”** or **“Software Products”** mean Extreme software products in object code form which are either sold separately or embedded into Extreme hardware products. Software Products are licensed to the End User pursuant to Extreme’s End User License Agreement (“EULA”) defined above.

**“You”** means the business entity who is entering into this Agreement with Extreme, as a pre-requisite to becoming enrolled in Extreme’s Partner Program.

*-Attachment 2 follows this page-*

## Attachment 2 Compliance with Laws

### 1. **Compliance with Anti-Corruption/Anti-Bribery Laws.**

1. Each party agrees to comply with all applicable country, federal state and local laws, including without limitation, such laws and regulations related to the use of the Products under telecommunications laws/regulations, recycling or take-back programs, anti-bribery/anti-corruption laws, including, but not limited to, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, anti-kickback laws, laws against human slave trafficking and child labor laws (collectively “**Applicable Laws**”).

1.2 Each party represents and warrants that neither such party nor any party acting on its behalf (including its agents, directors, or employees) will make, offer, or will cause to be made or offered, any payment, loan or gift, hospitality, money, or *anything of value* either directly or indirectly to:

- (a) any official or employee of any government, or any agency or instrumentality thereof;
- (b) any political party or official thereof or any candidate for political office; or
- (c) international organization (such as the Red Cross, United Nations, or African Union, by way of example) or any other person, firm or organization

under circumstances in which such party, or such party’s directors, employees or agents know, or have reason to know, that all or any portion of such money or thing of value will be offered or given, directly or indirectly, to any person covered in (a) or (b) above to influence a decision or gain any improper advantage for Extreme in connection with any business transaction or which could result in a violation of Applicable Laws.

1.3 In addition, You shall properly and accurately record all transactions in Your books and records, including amount, purpose, and recipient, all of which You shall maintain with supporting documentation.

1.4 If Extreme Networks has reason to believe that a breach of the obligations set forth in this Attachment 2 has occurred or may occur, Extreme Networks may, without limitation to other rights and remedies, (a) withhold further delivery of Products or Services and other performance under the Partner Program until such time as it has received confirmation to its satisfaction that no breach has or will occur or (b) terminate Your participation in the Partner Program immediately in accordance with the termination terms of this Agreement. Upon Extreme’s request, You agree to complete and return a certification of compliance with this Attachment 2 in in a form acceptable to Extreme. In addition, upon Extreme’s request, Your agents, directors, and employees will also complete and return such certification.

## 2 **Export and Trade Compliance.**

- 2.1 The Products, Services and technical information relating thereto, in any medium (“Export Items”) are subject to the export control, sanctions and customs laws and regulations of the United States (including when located outside of the United States), and may also be subject to the export control, sanctions and customs laws and regulations of the country(ies) in which they are purchased, provided, incorporated, shipped, transit through, transferred, used or received. The Parties will comply with such applicable export and trade compliance laws and regulations, including any requirements to obtain export licenses or other government authorizations.
- 2.2 The Export Items may not be exported, re-exported, sold, leased, or otherwise transferred:
- (i) to restricted end-users (including but not limited to those on the U.S. Department of Commerce, Bureau of Industry and Security’s “Entity List,” “Military End User List” and “Denied Persons List,” the U.S. Department of the Treasury, Office of Foreign Assets Control’s “Specially Designated Nationals List” or entities owned 50 percent or more by such a person, or those on any other list of restricted parties maintained by an applicable jurisdiction),
  - (ii) to Belarus, Cuba, Iran, North Korea, Russia, Syria, the Crimea region of Ukraine, or the so-called Luhansk or Donetsk People’s Republics of Ukraine,
  - (iii) for any military end use or military end user in Belarus, Burma, Cambodia, China, Russia, or Venezuela, or
  - (iv) for any activity prohibited by the United States or other applicable government law or regulation (including but not limited to activities relating to nuclear proliferation, biological or chemical weapons, and missiles or rocket systems).
- 2.3 You agree to maintain a record of sales, imports, exports and re-export of the Products, technology, and Services in accordance with Your own business record retention policies, but at least for five (5) years.
- 2.4 If any Export Items are used, resold, or distributed in violation of the restrictions in this Section 2, Extreme is not obligated to provide any warranty service or technical support.
- 2.5 You agree to apply the requirements of this Section 2, or substantially similar requirements, to any agreement You enter into with a party for the resale or end use of the Export Items provided under this Agreement.
- 2.6 Your obligations under this exhibit shall survive after any expiration or termination of this Agreement.

*-End of Attachment 2-  
-Attachment 3 follows this page-*

### Attachment 3

*(Applicable to the Resale of Extreme Products and Services to the U.S. Government and to state and local governments in the United States)*

#### **Resale to the U.S. Government/U.S. State and Local Governments.**

1. All sales to the U.S. Government are to be made solely through **Extreme Federal, Inc.**, DUNS: 080845909/CAGE: 805X8. Any purchase order accepted by Extreme Federal, Inc. shall be considered a subcontract for “commercial items” as defined under the Federal Acquisition Regulation Subpart 2.1. Only clauses in FAR Subparts 12.5 and 44.4 which are required by law to be incorporated into a commercial item subcontract shall apply to such purchase order(s). Any additional FAR or agency FAR Supplemental clauses are expressly rejected by Extreme and shall have no force and effect unless Extreme accepts their inclusion in a writing that is signed by an authorized representative of Extreme Federal, Inc.
2. **End User License Agreement-United States Government Restricted Rights.** The software and documentation provided with Extreme Products and Services are “commercial items” as that term is defined at 48 C.F.R. 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the software and documentation in accordance with only those license rights set forth herein.
3. **GSA and other Schedule Contracts.** Your enrollment in Extreme’s Partner Program does not authorize You to resell Extreme Products/Services on a government schedule contract such as with the U.S. General Services Administration (“GSA”) or the California Multiple Award Schedule (“CMAS”), or any other similar schedule contract, and You are expressly prohibited from doing so without first obtaining the express written consent of an authorized representative of Extreme’s U.S. public sector sales organization.

4. **Extreme-held state/local government contracts.**

Your enrollment in Extreme’s Partner Program does not automatically authorize You to resell Extreme Products/Services under an Extreme-held state or local government contract, and You are expressly prohibited from doing so without first obtaining the written consent of an authorized representative of Extreme’s U.S. public sector sales organization.

Extreme’s consent is conditioned on Your ability to meet the following and other applicable requirements of the particular government contract:

- You are in Good Standing in the Partner Program;
- You have demonstrated experience in selling to the government customer;
- You are registered and in good standing with the applicable tax authority;
- You hold the required business licenses in the applicable jurisdiction;
- You are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency in the United States;
- You have not been convicted of or had a civil judgment rendered against You for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing

a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state anti-trust or procurement statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property within the past three years;

- You are not presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state or local) with commission of any of the offenses enumerated in the paragraph above;
- You have not had one or more public transactions (federal, state or local) terminated for cause or default within the past three years;
- You have a physical presence and an adequate number of sales/support personnel in the applicable jurisdiction to support the government customer;
- You agree to comply with the terms of the applicable government contract in connection with Your resale of Extreme Products and Services to government customers by executing a Partner participation agreement with Extreme that addresses such requirements; and
- When required by the government contract, Your participation to resell Extreme Products and Services under the Extreme-held government contract is approved by the government customer.

*-End of Agreement-*

*Any questions concerning this Agreement should be directed to [contractsadmin@extremenetworks.com](mailto:contractsadmin@extremenetworks.com).*