

ACCELLION, INC.
NON-EXCLUSIVE CHANNEL PARTNER AGREEMENT

THIS ACCELLION NON-EXCLUSIVE CHANNEL PARTNER AGREEMENT (THE “AGREEMENT”) APPLIES TO THE PROMOTION, MARKETING AND DISTRIBUTION OF ANY SOFTWARE PROVIDED DIRECTLY OR INDIRECTLY BY ACCELLION, INC. (“ACCELLION”), A DELAWARE CORPORATION WITH A PLACE OF BUSINESS AT 1804 EMBARCADERO PLACE, SUITE 200, PALO ALTO, CA 94303. BY FOLLOWING THE ONLINE ACCEPTANCE PROCESS PROVIDED BY ACCELLION, YOU AGREE TO BE LEGALLY BOUND BY THIS AGREEMENT. A CONTRACT IS THEN FORMED BETWEEN ACCELLION AND THE COMPANY OR OTHER LEGAL ENTITY THAT YOU REPRESENT (“CHANNEL PARTNER”).

1. APPOINTMENT.

1.1 Appointment. Upon acceptance of this Non-Exclusive Channel Partner Agreement (the “*Agreement*”) by Accellion, Inc. (“*Accellion*”), Accellion hereby grants Channel Partner for the term of this Agreement a non-exclusive, non-transferable, non-sublicensable right and license to promote, market, and distribute Accellion software products (the “*Products*”) as designated on the Accellion Partner Portal (“*Partner Portal*”), solely to End Users subject to the requirements of this Agreement and the Partner Portal.

1.2 End Users. An End User is an entity that acquires Products for such entity’s internal business purposes and not for sale, resale, sublicense, lease or any other form of distribution to third parties.

1.3 Products. Accellion may revise, add or delete Products upon thirty (30) days prior written notice to Channel Partner. Any revision will apply to all orders accepted after the effective date of the revision. Channel Partner agrees that despite any use of the terms “purchase” and “sale” in connection with software Products, such software is not and shall not be sold, nor shall title thereto be transferred to Channel Partner or End Users.

1.4 Accellion End User Agreement. All sales to End Users are subject to the End User’s acceptance of the terms of the then-current Accellion license agreement, located at <http://www.accellion.com/license/ASLA>, including those terms specified on Accellion’s then-current order form, located at <http://www.accellion.com/license/orderformv1.html> (collectively the “*Accellion End User Agreement*”). If the End User fails to accept such terms, they will not be able to use the Products, and in such case Accellion shall not refund any fees paid under this Agreement. Channel Partner has no authority to modify the terms of the Accellion End User Agreement, or to bind Accellion to any terms, or make any representation or warranty on behalf of Accellion. Accellion shall be an express third party beneficiary of Channel Partner’s agreement with the End User, and shall have the sole right and authority to enforce the terms of the Accellion End User Agreement. Channel Partner shall, upon Accellion’s request and at Accellion’s expense, take all actions reasonably requested to assist in such enforcement.

1.5 Standards. Channel Partner shall conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill, and reputation of Accellion. Channel Partner shall avoid deceptive, misleading, or unethical practices that are or might be detrimental or disparaging to Accellion or its Products. Channel Partner shall not publish or employ or cooperate in the publication or employment of any misleading or deceptive materials relating to the Products. Channel Partner shall make no covenants, representations, warranties or guarantees to End Users or to the trade with respect to the specifications, features, or capabilities of the Product which are inconsistent with the literature distributed by Channel Partner, or which are inconsistent with the then current Accellion End User Agreement. Channel Partner will notify Accellion immediately of any knowledge or suspicion of any violations of Accellion’s patents, copyrights, trademarks, or other proprietary rights.

1.6 Proprietary Rights. Channel Partner acknowledges and agrees that the Products and all other items provided hereunder and all copies thereof constitute valuable trade secrets of Accellion, or are proprietary and Confidential Information of Accellion, and title thereto remains in Accellion. All applicable copyrights, trade secrets, patents and other intellectual and property rights in the Products and all other items provided hereunder are and remain in Accellion. All other aspects of the Products and all other items provided hereunder, including without

limitation, programs, methods of processing, and specific design of individual programs and their interaction and unique programming techniques employed therein as well as screen formats shall remain the sole and exclusive property of Accellion and shall not be sold, revealed, disclosed or otherwise communicated, directly or indirectly, by Channel Partner, to any person, company or institution whatsoever other than for the purposes set forth herein. It is expressly understood that no title to or ownership of the Products, or any part thereof is hereby transferred to Channel Partner. Channel Partner shall not reverse engineer, decompile, disassemble or otherwise derive source code from the Products. All rights not expressly granted herein are reserved to Accellion.

2. ORDERS AND DELIVERY.

2.1 Orders and Acceptance. Channel Partner may initiate purchases under this Agreement only by submitting purchase orders via fax to 650-350-4335 or by e-mail to orders@accellion.com, with each purchase order to specify: (a) name of End User company; (b) the name, e-mail address and telephone number of the technical/buyer contact at End User; (c) the quantity and type of Products ordered identified by the Accellion part number; and (d) the number of Users/Seats for each Product. All purchase orders placed with Accellion for Products by Channel Partner shall be subject to acceptance in writing/email by Accellion referencing Channel Partner's purchase order number. Without limiting the above, all purchase orders will be governed by the terms and conditions of this Agreement and the terms and conditions of either party's forms of purchase order, acknowledgement or the like shall have no force or effect.

2.2 Delivery and Shipping. Accellion shall use reasonable efforts to deliver the Products on the delivery date specified in the Channel Partner purchase order. Accellion shall mark all Products for shipment to Channel Partner's address set forth above or to the address specified in the Channel Partner purchase order, and shall deliver the Products to a carrier or forwarding agent chosen by Accellion or specified in the Channel Partner purchase order. Shipment will be F.O.B. Accellion's shipping point, at which time risk of loss as to the Products passes to Channel Partner. Channel Partner shall pay all freight, insurance and other shipping expenses. Accellion will deliver software-only Products via electronic delivery.

2.3 Limitations. From time to time, Accellion may directly sell to its direct accounts. Channel Partner will register deals to avoid channel conflict. Guidelines for registering deals are provided in the Partner Portal ("**Deal Registration Program**"). Compliance with the Deal Registration Program is essential to minimize any perceived or real channel conflict, Accellion will work with Channel Partner to resolve any disputes, but shall have sole discretion and authority to resolve any such disputes. Accellion reserves the right to restrict or prohibit re-sales to any party in its sole discretion. In particular, Channel Partner is prohibited from reselling any Accellion Products or rights to any party that Channel Partner knows, or should reasonably suspect to be a competitor (or an agent of a competitor) of Accellion, or a party who intends to use the Products for any purpose other than file transfer (such as parties who might use the Products to reverse engineer, decompile or copy or reuse such information). If Channel Partner has any concern that any transaction might violate the foregoing restriction, Channel Partner should obtain advance written approval of such sales from Accellion.

3. PRICING AND PAYMENT.

3.1 Prices. Subject to Accellion's approval of Channel Partner's creditworthiness (which approval may be withdrawn at any time), Accellion shall charge and Channel Partner shall pay the fees for the Products according to the terms of the Accellion Partner Program detailed in the Partner Portal. Channel Partner will complete all forms and certifications reasonably requested by Accellion. Accellion may revise the fees for the Products upon thirty (30) business days' prior written notice to Channel Partner. Revisions will apply to all orders accepted by Accellion after the effective date of the revision.

3.2 Payment. All payments are non-refundable and due within thirty (30) days of the date of invoice unless alternative credit terms apply. Accellion may choose to extend due date in its sole discretion upon providing written notice to Channel Partner. Payment is due in U.S. Dollars. Alternative currencies (CAD, GBP, EURO, SGD or AUD) may be used upon separate agreement with Accellion. If Channel Partner fails to pay within ninety (90) days of the date of shipment, or fails to obtain return of Product from End User to Accellion in that time, Accellion reserves the right to seek payment or return of Product directly from the respective End Users. Payments

made after their due date will incur interest at a rate equal to 1.5% per month or the highest rate permitted by applicable law, whichever is lower.

3.3 Taxes. The fees payable by Channel Partner hereunder do not include any and all present and future taxes (including any excise, sales, use, value added, withholding, and similar taxes), customs duties, tariffs, or similar fees, and all payments made by Channel Partner to Accellion hereunder are payable in full without reduction for any such items. Channel Partner shall be the “importer of record” for all Order Forms under this Agreement. Channel Partner shall be responsible for and shall indemnify Accellion against any such taxes and fees required to be paid by Accellion, based on payments to Accellion hereunder or on the use or possession by Channel Partner of the Products, but excluding United States federal, state and local taxes based on Accellion’s net income.

3.4 Credit Terms. Accellion reserves the right at all times either generally or with respect to any specific order to vary, change or limit the amount or duration of credit to be allowed Channel Partner. At the time of submission of any order for Products hereunder, Accellion may require Channel Partner to either: (i) pay by certified check or wire transfer to a bank account designated by Accellion the amount of the aggregate purchase price of the Products ordered (plus any applicable taxes, shipping and other charges); or (ii) cause to be issued by a bank acceptable to Accellion, and confirmed by a bank designated by Accellion, one or more irrevocable stand-by letters of credit covering the aggregate purchase price of the Products (plus any applicable taxes, shipping and other charges). If Channel Partner defaults in any of its payment obligations to Accellion, including failure to comply with credit terms established by Accellion from time to time in its sole discretion, Accellion may declare, upon written notice to Channel Partner, all sums immediately due and payable.

3.5 Unauthorized Deductions and Late Payments. Invoiced amounts are not subject to offset, discount or deduction unless expressly authorized by Accellion in writing. If any amount payable by Channel Partner is not paid when due, then without limiting any other rights which Accellion may have as a result of such late payment, the amount unpaid shall bear interest until paid at a monthly rate of one and one-half percent (1.5%) or the maximum amount permitted under law, whichever is less, with such interest to be paid on demand together with all costs incurred by Accellion to collect the amounts due hereunder, including but not limited to reasonable attorneys’ fees and disbursements.

4. TRADEMARKS AND NOTICES.

4.1 Trademarks. Accellion authorizes Channel Partner to use Accellion’s current and future trademarks, service marks and trade names (“*Marks*”) solely in connection with the marketing and distribution of Products pursuant to this Agreement. Channel Partner shall submit to Accellion all representations of the Marks that Channel Partner intends to use in connection with the Products, for Accellion’s approval of design, color, and other details.

4.2 Ownership of Trademarks. If Channel Partner, in the course of performing its services hereunder, acquires any goodwill in any of the Marks, all such goodwill will automatically vest in Accellion and Channel Partner shall take all such actions or execute any documents necessary to make effective such vesting. Channel Partner shall not contest the validity of any of the Marks or Accellion’s exclusive ownership of the Marks. Channel Partner shall not adopt, use, or register, whether as a corporate name, trademark, service mark or other indication of origin, any of the Marks, or any word or mark confusingly similar to the Marks in any jurisdiction. Channel Partner shall not remove or efface any proprietary notices on the Products.

5. WARRANTY AND DISCLAIMER.

5.1 Limited Warranty. Accellion warrants, for a period of thirty (30) days following shipment (the “*Warranty Period*”), that the Products will perform substantially in accordance with the specifications in the documentation shipped with the Products. Accellion’s sole obligation and Channel Partner’s and/or End User’s sole remedy for any breach of the foregoing warranty is to repair or replace the Products, provided however that if Accellion, in its sole discretion, determines that it is not able to repair or replace the Products, Accellion shall refund to Channel Partner that portion of the purchase price paid for the Products that Channel Partner is obligated to refund to the End User as a result of such breach of warranty. As a condition to the foregoing warranty, the Channel

Partner and/or End User must provide Accellion with written notice of such Error within the Warranty Period. Misuse or modification of the Product by End User, Channel Partner or any third party will void all warranties.

5.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH HEREIN, TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, ACCELLION HEREBY DISCLAIMS ANY AND ALL WARRANTIES ON THE PRODUCTS, MAINTENANCE AND SUPPORT, AND PROFESSIONAL SERVICES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR NON-INFRINGEMENT.

6. TERM AND TERMINATION.

6.1 Term. This Agreement will commence in force on the Effective Date and will continue for a term of one (1) year, unless terminated earlier as provided in this Agreement. This Agreement will automatically renew for successive one (1) year terms unless terminated by either party upon no less than thirty (30) days written notice prior to the termination of the initial or any renewal term.

6.2 Termination for Cause. Either party may terminate this Agreement at any time upon written notice if the other party: (i) is in material breach of its obligations hereunder and fails to cure such breach within thirty (30) days following written notice of such breach, or (ii) becomes insolvent or files or has filed against it a petition under bankruptcy or insolvency law which is not dismissed within ninety (90) days, makes an assignment for the benefit of creditors or takes any similar action under applicable bankruptcy or insolvency law.

6.3 Termination on Other Grounds. This Agreement may be also terminated: (i) by either party for any or no reason and without liability upon sixty (60) days written notice; and (ii) by Accellion upon thirty (30) days advance written notice if Channel Partner fails to achieve the yearly minimum revenue commitment set forth in the Accellion Partner Program.

6.4 Effect of Termination. On expiration or termination of this Agreement, Accellion may cancel any or all unfilled orders. Any orders which are not canceled will be fulfilled per the terms of the Agreement. Upon expiration or termination, each party shall return to the other any materials of the other, including without limitation all Confidential Information. Termination or expiration shall not relieve either party of the obligation to pay any sums due hereunder. Other obligations which shall survive for a period of five (5) years from the termination or expiration of this Agreement include: indemnities and limitation of liability. Obligations regarding export control regulations and U.S. government end users shall survive indefinitely. The warranty and confidentiality provisions shall remain in effect for their stated durations. Neither party shall be liable to the other for any damages, expenditures, loss of profits or prospective profits or goodwill on account of the termination or expiration of this Agreement pursuant to its terms. Channel Partner expressly waives any and all rights provided by law or statute for any indemnity or compensation from Accellion by reason of termination or non-renewal of this Agreement.

7. CONFIDENTIAL INFORMATION. “*Confidential Information*” means any information disclosed by one party to the other pursuant to this Agreement which is marked “Confidential,” “Proprietary,” or which, under the circumstances surrounding disclosure, would reasonably be expected to be confidential. Each party shall treat as confidential all Confidential Information of the other party, and shall not use such Confidential Information except to exercise its rights or perform its obligations under this Agreement and shall not disclose such Confidential Information to any third party. This paragraph will not apply to any Confidential Information which is generally known and available, or in the public domain through no fault of the receiver. Each party agrees to effectuate, by agreement, instruction or otherwise, compliance with these confidentiality obligations by its employees, agents, consultants and others who are permitted access or use (in accordance with the terms herein) of the Confidential Information of the other party. Each party agrees that if there is a breach or threatened breach of the provisions of this Agreement, the other party may have no adequate remedy in money or damages and accordingly shall be entitled to seek injunctive relief and any other appropriate equitable remedies for any such breach without proof of actual injury. Each party further agrees that it will not oppose the granting of such relief and that it will not seek, and agree to waive any requirement for, the posting of any bond in connection therewith. Such remedies shall not be deemed to be the exclusive remedies for any breaches of this Agreement by a party or its representatives, and shall be in addition to all other remedies available at law or in equity.

8. INDEMNITY.

8.1 Infringement Indemnification. Accellion shall, at its own expense, defend or settle any suit or proceeding that is instituted against Channel Partner to the extent such suit or proceeding alleges that any Product sold by Accellion hereunder infringes any duly issued patent or copyright of the United States or the Channel Partner's headquarter office and shall pay all damages awarded therein against Channel Partner or agreed upon in settlement by Accellion; provided that Channel Partner (i) gives Accellion immediate notice in writing of any such suit, proceeding or threat thereof, (ii) permits Accellion sole control, through counsel of Accellion's choice, to defend and/or settle such suit and (iii) gives Accellion all the needed information, assistance and authority, at Accellion's expense, to enable Accellion to defend or settle such suit. In the event the use or sale of any Product purchased from Accellion is enjoined, or in the event Accellion wishes to minimize its potential liability hereunder, Accellion may, at its sole option and expense: (i) procure for Channel Partner the right to distribute such Product; (ii) substitute a functionally equivalent, non-infringing unit or version of the Product; (iii) modify such Product so that it no longer infringes but is substantially equivalent in functionality; or (iv) if none of the foregoing are commercially feasible, take back such Product and refund the purchase price paid by Channel Partner for such Product. Accellion shall in no event be obligated to accept new orders for Products which are subject to a claim of infringement covered under this section. THIS SECTION 8.1 STATES THE SOLE LIABILITY OF ACCELLION WITH RESPECT TO ANY INFRINGEMENT BY THE PRODUCTS OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY CLAIM.

8.2 Exclusions. Accellion's obligations under Section 8.1 shall not apply to and Accellion shall have no liability or obligation for any infringement arising from: (i) any modification, servicing or addition made to the Product by anyone other than Accellion, (ii) the use of such Product as a part of or in combination with any devices, parts or software not provided by Accellion, (iii) compliance with Channel Partner's design requirements or specifications, (iv) the use of other than the then current unaltered release of the software Product available from Accellion or (v) the use of such Product to practice any method or process which does not occur wholly within the Product. The above exclusions apply to the extent that the infringement would have been avoided but for such modifications, combinations, compliance with specifications, use of other than the current release or practice of such method or process.

8.3 Channel Partner Indemnification. Channel Partner will defend, indemnify and hold Accellion harmless from and against any and all damages, liabilities, costs and expenses (including but not limited to attorneys' fees) arising out of or incurred by Accellion in connection with or as a result of any claim arising out of or relating to any acts or omissions of Channel Partner in connection with this Agreement.

9. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, ACCELLION'S LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE AMOUNTS PAID BY CHANNEL PARTNER TO ACCELLION WITHIN ONE HUNDRED EIGHTY (180) DAYS PRIOR TO THE DATE OF THE CLAIM GIVING RISE TO SUCH LIABILITY. ACCELLION WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION), WHETHER OR NOT ACCELLION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

10. COMPLIANCE WITH LAWS.

10.1 Compliance. Channel Partner agrees to comply with all applicable laws of the United States and all other applicable governmental entities including, without limitation, (i) the Foreign Corrupt Practices Act of 1977, (ii) all export laws, restrictions and regulations of the Department of Commerce or other United States or foreign agency or authority. Channel Partner agrees not to export, or allow the export or re-export of any Accellion Products, or of information regarding Accellion Products in violation of any such restrictions, laws or regulations.

10.2 Audit Rights. During the term of this Agreement and for a period of two (2) years following any expiration or termination of this Agreement (“*Auditing Period*”), Channel Partner shall maintain full and complete records of its provision of the Products to End Users (the “*License Records*”). For the purpose of verifying the accuracy of License Records, Accellion shall, at any time during the Auditing Period, be entitled to audit such License Records by providing Channel Partner with fifteen (15) business days prior written notice; provided, however, that no more than one (1) audit may be conducted in any twelve (12) month period. Both parties shall mutually agree upon an independent third party auditor to conduct the audit and such auditor shall sign a standard confidentiality agreement with both parties. Any audit performed pursuant to this Section 10.4 shall be conducted during normal business hours and at Accellion’s expense; provided, however, that the cost of such audit shall be paid by Channel Partner if the audit reveals an underpayment by Channel Partner of more than five percent (5%) of the amounts payable by Channel Partner to Accellion in any twelve (12) month period.

11. MISCELLANEOUS. If any portion of this Agreement is held to be unenforceable, the remainder of this Agreement will remain valid. This Agreement may not be assigned by Channel Partner without Accellion’s prior written consent. Subject to the preceding sentence, this Agreement will inure to the benefit of the parties’ successors and assigns. The relationship between Accellion and Channel Partner established by this Agreement is that of independent contractors. Unless otherwise set forth in this Agreement, all notices must be either sent registered or certified mail, return receipt requested, by overnight courier, or served personally. Channel Partner consents to service of process by notice in compliance with this Section 11. The parties agree that the United Nations Convention on the International Sale of Goods will not apply to this Agreement. Channel Partner agrees that any judgment against Channel Partner granted in the state or federal courts in the United States shall constitute a stipulated judgment in any action filed in any jurisdiction. Channel Partner covenants and agrees not to threaten, file or pursue any action against Accellion arising from or relating to a claim of agency or similar claim based on the distribution relationship and agrees to indemnify, defend, and hold Accellion and its affiliated companies, and their respective officers, directors, employees and agents, harmless from and against all claims, liability, damages, fees and costs (including fees and costs of attorneys and other experts), arising from or relating to such claim. This Agreement shall be governed by and construed in accordance with the laws of the State of California pertaining to contracts made in, and solely performed in the State of California by California residents. The terms and conditions of this Agreement (including the Partner Portal terms and conditions which are hereby incorporated by reference) constitute the entire Agreement between the parties and supersede all previous agreements, whether oral or written, between the parties with respect to the subject matter hereof. Both parties expressly consent and agree that this Agreement may be executed by electronic transmission through an electronic signature service, or by click-through acceptance by Channel Partner with Accellion’s confirmation of acceptance, and that such execution by electronic transmission or confirmation of acceptance will represent final and binding execution and acceptance of the terms and conditions contained in this Agreement. Any copy of this Agreement made by reliable means (such as PDF, photocopy or facsimile) shall be considered an original.