

CODE SYSTEMS RESELLER AGREEMENT

This agreement ("Agreement") is made by and between Code Systems Corporation ("Code Systems"), with its principal place of business at 119 First Avenue South, 3rd Floor, Seattle, Washington 98104, and

_____,
("Reseller"), with a principal place of business at

_____,
and is effective as of

_____, 20_____
(the "Effective Date").

1. DEFINITIONS

In this Agreement, the terms:

"Affiliates" means any entity controlling, controlled by, or under common control as evidenced by ownership or control of, either directly or indirectly, at least 50% of the outstanding voting securities of the relevant entity.

"Code Systems Products" means the software products owned by Code Systems that are listed in the Code Systems Reseller Portal and which are meant for direct or indirect distribution by Reseller to End Users hereunder.

"Code Systems Web Site" means the web site published by Code Systems at the web server URL www.xenocode.com. "Code System Reseller Portal" means the web page entitled "Reseller Portal" or similar and published within the Code Systems Web Site.

"Confidential Information" means any information disclosed previously or in the future ("disclosed" means any provision of information, of access to information, or of means to gain access to information) by either party to the other party, either directly or indirectly, in writing, orally, by inspection of tangible objects or otherwise (including, without limitation, research, product plans, products, services, customers, markets, software, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing and finances documents), which are indicated by the disclosing party to be "Confidential," "Proprietary" or similarly designated, or which under the context of its disclosure ought to be considered confidential. Information communicated orally shall be considered Confidential Information if such information is identified as Confidential Information at the time of disclosure or if such information is confirmed in writing, including confirmation via email, as being Confidential Information within a reasonable time after the initial disclosure. Confidential Information may also include information disclosed to a disclosing party by third parties. Confidential Information shall not, however, include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party shall give the disclosing party prompt written notice of such requirement prior to any disclosure so that the disclosing party may seek a protective order or other appropriate relief.

"Documentation" means Code Systems' technical, training, sales and marketing or other user manuals, guides and other written material in printed or electronic form, relating to the Licensed Materials.

"End User" means an end user customer of Reseller purchasing Licensed Materials or products integrating Licensed Materials from Reseller.

"Evaluation License" means a limited term defined trial or demonstration license with potential end users of the Code Systems Product with a trial period of not more than ninety (90) days containing terms that are not materially less protective of Code Systems than those provided in Code Systems' standard user license agreements.

"Licensed Materials" means each of the Code Systems Products, Documentation and Code Systems APIs, SDKs and any other Code Systems software code designed to facilitate the integration or use of any Code Systems Product by or with Reseller's own products.

"PayPal" means the electronic payment system operated by PayPal, Inc. and its Affiliates.

"Reseller Materials" means any software, source code, data and databases, printed and electronic documentation, marketing materials, web sites, or any other materials integrated or bundled with, processed or virtualized using, or distributed alongside the Licensed Materials.

"Source Code" means software code in any form or format which is designed to be read, written and/or changed by humans, or which otherwise can be read, written or changed by humans without use of decompilation methods or procedures, or any other methods or procedures designed or used to translate or convert software code from a form or format that cannot be read, written or changed by humans into a form or format that can be read, written or changed by humans. For purposes of this paragraph, actions "by humans" shall include both action directly by humans without any assistance, and actions by humans with assistance, support, extension or augmentation by mechanical, electronic or other means.

2. LICENSE GRANTS

Distribution License. Code Systems hereby grants to Reseller a worldwide, non-exclusive, license during the Term to reproduce, display, integrate, and distribute, in accordance with the terms of this Agreement, the Licensed Materials. Reseller shall ensure that any Reseller Products incorporating or bundled with the Licensed Materials shall be governed by a license agreement that is consistent with Code Systems' end user license agreement and the terms of this Agreement. Reseller shall not modify Licensed Materials nor interfere with proper functioning of any licensing or anti-piracy mechanisms which may be incorporated in Licensed Materials.

Ownership. Code Systems shall retain all right, title and interest to any patents, copyrights, trade secrets or other proprietary rights in the Licensed Materials. Code Systems may make changes to Licensed Materials at any time without notice.

3. PAYMENTS

Payments to Code Systems. In consideration for the licenses granted for the Licensed Materials, Reseller shall pay to Code Systems the licensing fees published at the Code Systems Reseller Portal. These fees may be changed at any time at the sole discretion of Code Systems, provided that Reseller shall have at least 30 days notice by electronic or physical mail prior to any change in licensing fees.

Reseller Fulfillment. Reseller shall fulfill orders using a web-based fulfillment system made available by Code Systems (the "Reseller Fulfillment System"). Such fulfillment system may require Reseller to enter the End User name and email address or other identifying information in order to activate End User products. Reseller shall submit serial numbers or End User names for returned or deactivated products, fraudulent purchases, chargebacks, and

other repudiated transactions to the Reseller Fulfillment System, and such products shall be deactivated by Code Systems using Code Systems' license management system.

Direct Fulfillment. Code Systems may also provide Reseller with the option to allow End Users to place orders through a Reseller-branded in-program, phone-, or web-based store system provided and hosted by Code Systems (the "Direct Fulfillment System"). Reseller branding shall include display of the Reseller's name and contact information to the End User at purchase time. Code Systems shall submit royalties for such purchases to Reseller via electronic funds transfer, PayPal, or check drawn against a U.S. bank. Royalties associated with purchases through the Direct Fulfillment System shall be published at the Code Systems Reseller Portal and may be changed at any time at the sole discretion of Code Systems, provided that Reseller shall have at least 30 days notice by electronic or physical mail prior to any change in royalty rates. Such royalties shall be paid no later than ninety (90) days of the date on which the order was fulfilled. Code Systems may deduct royalties associated with returned products, fraudulent purchases, chargebacks, and other repudiated transactions from amounts owed to Reseller.

Payment Terms. Unless otherwise specified by Code Systems as described in this Section 3, payments owed to Code Systems shall be due upon product activation or receipt of Licensed Materials by the End User, whichever is sooner, excluding Evaluation Licenses (the "Delivery Date"). Code Systems, at its sole discretion, may allow Reseller to submit payment on Net 30 or Net 45 terms following the Delivery Date. Reseller shall be notified by electronic or physical mail of changes in Reseller's payment terms, which changes may be made at any time by Code Systems at its sole discretion. Payments shall be denominated in U.S. dollars and made by credit card, PayPal, electronic funds transfer, or check drawn against a U.S. bank.

Taxes. Reseller shall pay any sales, use, property, license, value added, withholding, excise or similar tax, whether federal, state or local, that may be imposed upon or with respect to the delivery by Code Systems to Reseller of the Licensed Materials or the sale, resale or use of the Licensed Materials by Reseller, its Affiliates, or any of their End Users.

Audit. Reseller shall maintain accurate records of the number of units of Licensed Materials distributed in its books for a rolling three (3) year period. Code Systems shall have the right to audit these records once during each twelve month period, during normal business hours and with at least ten (10) business days prior written notice. Any such audits shall be conducted by a publicly certified accounting firm. Such accounting firm shall agree to be bound by confidentiality restrictions at least as restrictive as this Agreement. Audits shall not interfere unreasonably with Reseller's business activities. Code Systems will pay the costs related to any such audit. If an auditor discovers any discrepancy regarding payments due based on the number of units of Licensed Materials distributed and the royalties actually paid to Code Systems, Reseller will then pay within thirty (30) days all payments due to Code Systems which were previously undeclared.

4. SUPPORT AND MAINTENANCE

Maintenance. Code Systems shall provide Reseller with published error corrections, bug fixes, and patches to Licensed Materials not later than they are published and made available by Code Systems to any other reseller of Licensed Materials bound by a resale agreement substantially similar to this Agreement.

Technical Support. Reseller shall provide First-Line Support for the Licensed Materials directly to End Users. First-Line Support services shall include receiving inquiries from the Users with respect to the Licensed Materials, gathering and assessing information related to such inquiries, and making commercially reasonable efforts to resolve the problem using product

documentation, knowledge base, and other materials made available to Reseller. If, after commercially reasonable efforts, Reseller is unable to diagnose or resolve problems or performance deficiencies of the Licensed Materials, Reseller shall contact Code Systems for Second-Line Support. Code Systems shall make available to Reseller all published Documentation, knowledge base articles, and similar support information related to Licensed Materials to facilitate Reseller's First-Line Support services.

5. PUBLICITY

Marketing Materials. Code Systems shall provide Reseller with access to marketing materials related to the Licensed Materials, including but not limited to such data sheets, sales presentations, white papers, training materials, and other marketing collateral Code Systems makes or may make publicly available. Reseller shall have the right to reproduce and distribute such materials in unmodified form in support of the activities contemplated by this Agreement.

Promotional Efforts. Reseller agrees to display the Licensed Materials product names, and descriptions in any appropriate web sites, catalogs, sales and promotional materials, and price lists published by Reseller, and to place hyperlinks to the Code Systems web site in any web sites describing or distributing Licensed Materials in a manner visible to a reasonable reader. Reseller agrees to apply commercially reasonable efforts towards marketing and selling Licensed Materials.

Use of Trademarks. Code Systems hereby grants Reseller the right to visually display the Code Systems name and the Code Systems product names, logos, and trademarks in Reseller's advertising and promotional materials. All goodwill based upon such use of the associated trademarks shall inure to the benefit of Code Systems. Reseller is granted no other rights to Code Systems' trademarks, and acknowledges that it shall not gain any proprietary interest in Code Systems' trademarks. Reseller grants to Code Systems the right to display Reseller's name and contact information in its web site, documentation, products, sales and promotional materials, press releases, case studies, and other marketing collateral.

6. WARRANTIES

Code Systems Warranties. Code Systems represents and warrants that for ninety (90) days following delivery (i) all Licensed Materials will conform in all material respects to the Documentation; (ii) all Licensed Materials will function in all material respects on the machines and with the operating systems and other platforms for which they have been expressly designed, as set forth in the Documentation; and (iii) Code Systems has full and sufficient right, title and authority to assign or grant the rights and/or licenses granted to Reseller under this Agreement. Code Systems represents and warrants that Code Systems has not previously or otherwise granted nor will in the future grant any rights to any third party which conflict with the rights herein granted by Code Systems.

Reseller Warranties. Reseller represents and warrants to Licensor that: (i) Reseller has the full corporate right, power and authority to enter into the Agreement, to grant the rights and licenses granted hereunder and to perform the acts required of it hereunder; (ii) the execution of the Agreement by Reseller, and the performance by Reseller of its obligations and duties hereunder, do not and will not violate any agreement to which Reseller is a party or by which it is otherwise bound; (iii) when executed and delivered by Reseller, the Agreement will constitute the legal, valid and binding obligation of Reseller, enforceable against Reseller in accordance with its terms; (iv) Reseller's performance under this Agreement shall at all times comply with all applicable laws and regulations; (v) all of Reseller's marketing and promotional activities hereunder shall be conducted in a professional and timely manner, consistent with generally accepted industry standards, and in a manner that complies with applicable law and is not

misleading; and (vi) any materials provided by Reseller in conjunction with its marketing and promotion of the Licensed Materials are accurate and not misleading and do not infringe or misappropriate any copyright, patent, trade secret, trademark or other intellectual property right.

Exclusion of Implied Warranties. THE WARRANTIES IN THIS SECTION 6 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE.

7. LIMITATION OF LIABILITY

LIABILITY ARISING UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT, OBJECTIVELY MEASURABLE DAMAGES AND, TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL HAVE ANY LIABILITY TO THE OTHER PARTY OR A THIRD PARTY FOR ANY INDIRECT OR SPECULATIVE DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTIONS, AND LOSS OF PROFITS, IRRESPECTIVE OF WHETHER THE PARTY HAS ADVANCE NOTICE OF THE POSSIBILITY OF ANY SUCH DAMAGES; PROVIDED, HOWEVER THAT THIS LIMITATION SHALL NOT APPLY TO A PARTY'S INDEMNIFICATION OBLIGATIONS, DAMAGES ARISING FROM A PARTY'S BREACH OF CONFIDENTIALITY, OR DAMAGES ARISING FROM A PARTY'S WILLFUL MISCONDUCT.

NOTWITHSTANDING THE FOREGOING, A PARTY'S TOTAL COLLECTIVE LIABILITY TO THE OTHER PARTY UNDER THIS AGREEMENT SHALL NOT EXCEED TWO TIMES THE TOTAL AMOUNT PAID TO CODE SYSTEMS BY RESELLER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE INCIDENT GIVING RISE TO SUCH LIABILITY, PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL NOT APPLY TO A PARTY'S INDEMNIFICATION OBLIGATIONS, DAMAGES ARISING FROM A PARTY'S BREACH OF CONFIDENTIALITY, OR DAMAGES ARISING FROM A PARTY'S WILLFUL MISCONDUCT.

8. CONFIDENTIALITY

Non-Disclosure of Confidential Information. Each party agrees not to use any Confidential Information of the other party for any purpose except in support of the activities contemplated in this agreement. Each party agrees not to disclose any Confidential Information of the disclosing party to third parties or to such party's employees, except to those employees of the receiving party who are required to have the information in order to evaluate or engage in discussions concerning the contemplated business relationship. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

Maintenance of Confidentiality. Each party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party shall take at least those measures that it takes to protect its own most highly confidential information, and shall ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither party shall make any copies of the Confidential Information of the other party unless such copying is previously approved in writing by the disclosing party. Each party shall reproduce the disclosing party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

Ownership and Return of Materials. Any and all Confidential Information disclosed by either party hereto is and shall remain the property of the disclosing party. All documents and other tangible objects containing or

representing Confidential Information, either in whole or part, which has been disclosed by either party to the other party, and all copies thereof which are in the possession of the receiving party, shall be promptly returned to the disclosing party upon the first of the following to occur: (i) the disclosing party's written request; (ii) the completion of the purpose for which it was provided; (iii) the determination by the receiving party that it no longer desires to possess the Confidential Information; or (iv) within thirty (30) days after any termination of this NDA or any accompanying agreement.

No Additional Restriction. Nothing in this Agreement shall restrict the disclosing party from using, disclosing or disseminating its own Confidential Information in any way.

Residuals. Notwithstanding the foregoing provisions of this Section 8, the receiving party will have the right to use and exploit Residuals, except that Residuals shall be subject to the same limitations on disclosure as the receiving party would impose on its own confidential information of like value. As used herein, "Residuals" means ideas, information and understandings that are retained in the memory of an ordinary person skilled in the art, not intent on appropriating the Confidential Information of the disclosing party as a result of his or her review, evaluation or testing of such Confidential Information.

9. TERM AND TERMINATION

Term. This Agreement shall continue in force from the Effective Date until terminated by Code Systems or Reseller.

Termination. Either party may terminate this Agreement without cause by providing written notice to the other party sixty (60) days in advance of the effective date of termination. Either party may terminate this Agreement upon fourteen (14) days written notice of a material breach by the other party if such breach is not cured within such fourteen (14) day period. This Agreement may also be terminated by the mutual written consent of the parties.

Rights upon Termination. If this Agreement is terminated, the license to distribute the Licensed Materials granted hereunder shall terminate; however, any licenses to use Licensed Materials already granted by Reseller to End Users prior to such termination shall not be affected and shall continue in full force and effect.

Survival. The parties' rights and obligations under Sections 6 (Warranties), 9 (Term and Termination), and 10 (Miscellaneous) shall survive any termination of this Agreement. The obligations of each receiving party under Section 8 (Confidentiality) shall continue for a period of five (5) years following the termination of this Agreement.

10. MISCELLANEOUS

Governing Law, Jurisdiction and Attorneys' Fees. This Agreement and all matters arising out of or relating to this Agreement shall be governed by the laws of the State of Washington, excluding its conflict of law provisions. In the event of any litigation of any controversy or dispute arising out of or in connection with this Agreement, its interpretation, its performance, or the like, the prevailing party shall be awarded reasonable attorneys' fees and expenses, court costs, and reasonable costs for expert and other witnesses attributable to the prosecution or defense of that controversy or dispute. In the event of a non-adjudicative settlement of litigation between the parties, the term "prevailing party" shall be determined by that same process.

Piracy. Reseller shall use commercially reasonable efforts to prevent piracy and under-licensing of the Licensed Materials or Reseller products incorporating the Licensed Materials and inform Code Systems in writing of

any piracy or under-licensing that is discovered by Reseller or are otherwise brought to its attention.

Notices. All notices required to be sent hereunder shall be in writing and shall be deemed to have been given upon (i) the date it was delivered by courier, or (ii) if by certified mail return receipt requested, on the date received, to the addresses set forth above and to the attention of the signatories of this Agreement, or to such other address or individual as the parties may specify from time to time by written notice to the other party.

Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

Waiver. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

No Agency, Partnership or Joint Venture. No agency, employment, partnership, joint venture, or other joint relationship is created hereby. Reseller and Code Systems are each independent contractors with respect to the other and neither has any authority to bind the other in any respect whatsoever.

Assignment. Neither party may assign, transfer or delegate this Agreement or any right and/or obligation of the party hereunder to any third party hereto without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign this Agreement and such party's rights and obligations hereunder without the consent of the other party to a subsidiary, parent, or entity under common control. In addition, either party may assign this Agreement, and its rights and obligations hereunder, to any third party that acquires all or substantially all of such party's stock or assets relating to that portion of such party's business that is related to the subject matter of this Agreement, provided that such party assumes all of the obligations of the assigning company under this Agreement. Any attempted assignment, delegation, or transfer in contravention of this Agreement shall be null and void.

Export Control. The parties agree that the export of Licensed Materials is subject to the export control laws of the United States of America and each party agrees to abide by all such export control laws and regulations, including without limitation any regulations promulgated by the Department of Commerce (or its successors) or the Department of Treasury.

Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any such section nor in any way affect this Agreement.

General Indemnity. Each party (an "Indemnitor") shall defend and indemnify the other party and its employees, officers, directors and agents (the "Indemnitee") against all damages stemming from the party's gross negligence or willful misconduct or for bodily injury, death, or damage to real or tangible personal property proximately caused by the Indemnitor in the course of performing this Agreement; provided that (i) the Indemnitor receives prompt written notice of the claim from the Indemnitee under this Section 10, (ii) the Indemnitor has the right to control the defense of such claim and any related settlement negotiations, and (iii) the Indemnitee provides to the Indemnitor, at the Indemnitor's request and expense, with the assistance, information and authority necessary to perform the Indemnitor's obligations under this Section 10.

Entire Agreement. This Agreement constitutes the final, complete and exclusive agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or

representations, written or oral, relating to its subject matter. This Agreement shall also supersede all terms of any additional or unsigned license terms included in any package, media or electronic version of Licensed Materials provided under this Agreement, including but not limited to any "shrink wrap", "click wrap" or "pop-up" license terms. This Agreement shall not be effective unless executed by Code Systems and a duly authorized representative of Reseller. This Agreement shall not be changed, modified, supplemented or amended in any manner and no other agreement between the parties shall be effected except pursuant to a written instrument signed by both Code Systems and a duly authorized representative of Reseller.

11. EXECUTION

Code Systems and Reseller have caused this Agreement to be executed by their duly authorized representatives on the respective dates entered below.

CODE SYSTEMS CORPORATION

Signature: _____
Kenji Obata, Chief Executive Officer

Date: _____

RESELLER

Signature: _____

Name: _____

Title: _____

Date: _____