

F5 NETWORKS MANAGED SERVICES PROVIDER AGREEMENT

Last updated: 18 September 2020

BY ACCEPTING THIS F5 NETWORKS MANAGED SERVICE PROVIDER AGREEMENT (THE "AGREEMENT") IN CONNECTION WITH SUBMITTING A PARTNER APPLICATION FOR THE F5 UNITY PARTY PROGRAM – MANAGED SERVICE PROVIDER ("PARTNER APPLICATION"), OR PARTICIPATING IN THE F5 UNITY PARTNER PROGRAM, AND/OR BY ACCESSING F5 PARTNER CENTRAL, YOU (1) AGREE TO THE FOLLOWING TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF YOURSELF AND THE COMPANY OR ORGANIZATION IDENTIFIED AS THE COMPANY IN THE PARTNER APPLICATION (THE "PARTNER"), (2) REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF THE PARTNER, AND (3) AGREE THAT SUCH PARTNER WILL BE RESPONSIBLE FOR THE ACTS AND OMISSIONS OF ANY INDIVIDUAL USERS WHO SUBMIT THE PARTNER APPLICATION, ACCESS OR USE F5 PARTNER CENTRAL, SUBMIT A DEAL REGISTRATION, AND/OR PERFORM PARTNER'S OBLIGATIONS UNDER THIS AGREEMENT. IF YOU AND/OR PARTNER DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT ACCEPT THIS AGREEMENT, DO NOT SUBMIT A PARTNER APPLICATION, DO NOT SUBMIT A DEAL REGISTRATION AND DO NOT ACCESS F5 PARTNER CENTRAL.

YOU UNDERSTAND AND AGREE THAT SUBMISSION OF THE PARTNER APPLICATION AND YOUR ACCEPTANCE OF THIS AGREEMENT DOES NOT GUARANTEE YOUR PARTNER APPLICATION WILL BE APPROVED BY F5. YOUR PARTNER APPLICATION IS NOT APPROVED UNTIL YOU RECEIVE NOTIFICATION FROM F5 THAT YOUR PARTNER APPLICATION HAS BEEN APPROVED, WHICH APPROVAL IS PROVIDED IN F5'S SOLE DISCRETION.

You will provide accurate, current and complete information (including about Partner) in the Partner Application, in the submission of any Deal Registration, or in other account-related forms in connection with the F5 Unity Partner Program, as applicable ("**Partner Information**") and agree to maintain the security of your username(s) and password(s). You will maintain and promptly update the Partner Information to keep it accurate, current and complete.

The Agreement is entered into by and between Partner and F5. F5 Networks, Inc., F5 Networks Ltd. and F5 Networks Singapore Pte Ltd have agreed to their respective rights and obligations regarding the distribution of its products and services. All references to "**F5**" in this Agreement will be deemed to be a reference to the applicable F5 entity as follows: (i) F5 Networks Ltd if the promotion, sale and delivery is to End Users (as defined below) whose primary place of business is located in Europe, the Middle East or Africa ("**EMEA**"); (ii) F5 Networks Singapore Pte Ltd if the promotion, sale and delivery is to End Users whose primary place of business is located in the Asia-Pacific region ("**APAC**"); and (iii) F5 Networks, Inc. if the promotion, sale and delivery is to End Users whose primary place of business is located in a region outside of EMEA or APAC.

1. **Definitions.** As used in this Agreement, the following terms will have the meanings specified below.

1.1 "**Affiliate(s)**" means, with respect to either party, any company, corporation, partnership or other entity, directly or indirectly, controlling, controlled by, or under common control with, such party where "control" is defined as having rights to more than 50% of the equity, ownership or voting rights for such entity. From this point forward in this Agreement, a reference to "Partner" will mean Partner except where Affiliate is expressly added or excluded for the avoidance of doubt. F5 may provide Products or Support and Professional Services through its Affiliates. Unless otherwise agreed in writing by the parties, each party will be responsible for an Affiliate's performance and compliance with the terms of this Agreement.

1.2 "**Authorized Territory**" means, individually, each country selected by Partner during the Partner Application and approved by F5, within which Partner is authorized to market and Managed Services to its End Users in compliance with this Agreement, and together, such countries are referred to herein as the "**Authorized Territories**".

1.3 "**Documentation**" means published Product user operational instructions, Product specifications, and Product functionality and feature descriptions and other information provided in the form of F5's Product user manuals and/or Software-embedded user information.

1.4 "**Due Diligence Screening**" means the process by which F5 screens prospective and current partners, as further described in the F5 Channel Partner Policies and Procedures.

1.5 "**End User**" means a customer who has purchased the Managed Services from the Partner for the personal or business use of such customer and not for transfer or resale.

1.6 "**End User License Agreement**" or "**EULA**" means the then-current license agreement shipped with, incorporated in, or made available by download with the authorized Product(s), which sets forth the terms and conditions under which an End User may use such Product(s).

1.7 "**F5 Authorized Distribution Partner**" means a distributor, VAR or other reseller who is authorized by F5 to resell F5 Products and Support and Professional Services.

1.8 **"F5 Channel Partner Policies and Procedures"** means the documents posted to the F5 Partner Central including but not limited to the F5 Partner Program or its successor programs and other partner requirements, policies and procedures set forth on the PC (as defined below). The F5 Channel Partner Policies and Procedures, including all updates and changes thereto, are incorporated herein by this reference. F5 reserves the right to modify the F5 Partner Program and other F5 Channel Partner Policies and Procedures in its sole discretion from time to time upon thirty (30) days' notice to Partner.

1.9 **"F5 Partner Program"** means the Resale and Managed Services qualification criteria and recommended minimum discounts to Partner based upon its partnership level and value added responsibilities. Partner acknowledges and agrees that the value added responsibilities of Partner and the cost savings such responsibilities generate for F5 form the basis for the recommended discount levels. Partner acknowledges that for individual purchases between Partner and authorized distributors, the F5 Partner Program discounts are recommended discounts and are not intended to set a fixed or minimum price. Partner and the authorized distributors are free to negotiate final pricing.

1.10 **"F5 Partner Central" or "PC"** means <http://www.f5.com/partners> or any other successor site as designated by F5. Partner shall review the PC regularly for any updates or changes to the F5 Channel Partner Policies and Procedures and the F5 Partner Program.

1.11 **"Managed Services"** means the information technology hosting services provided by Partner whereby Partner provides IT infrastructure as a service on devices wholly owned, rented or leased by Partner and software licensed by Partner to End Users on a for fee basis.

1.12 **"Minimum Purchase Requirement"** means the minimum purchase requirements for Partner's partner tier level as set forth in the F5 Partner Program, or as otherwise agreed to in writing between Partner and F5.

1.13 **"Product"** means F5 hardware purchased by Partner and/or its Affiliates either from an F5 Authorized Distribution Partner or directly from F5 and/or Software licensed from F5.

1.14 **"Support and Professional Services"** means all support and professional services provided by F5 under this Agreement.

1.15 **"Software"** means software delivered as part of the Products, and/or separately as a Product and includes (i) the machine-executable object code version of the user-loadable programs of the Products; (ii) the micro code (firmware) embedded in the Products; (iii) all related Documentation. "Software" also includes without limitation published defect corrections, updates, upgrades, enhancements, and new releases of the Software provided to Partner under any maintenance or other arrangement. For the avoidance of doubt, other than F5's blade server software or as described in the applicable EULA (as described in Section 4), all Software under this Agreement is loaded onto F5 hardware and is only for use with such hardware and never as a standalone product.

2. **Scope.** Subject to the terms and conditions of this Agreement, upon approval by F5 of the Partner Application submitted by you on behalf of Partner, F5 appoints Partner as its non-exclusive provider of Managed Services to its End Users in the Authorized Territory. This appointment does not authorize any Partner Affiliate to act as a provider of Managed Service without the prior, written approval of F5. Partner acknowledges that nothing in this Agreement will limit in any manner F5's marketing, distribution or sales activities or its rights to market, distribute or sell, directly or indirectly, or appoint any other person or company as a provider of Managed Services for F5 within the Authorized Territory or elsewhere. Nothing in this Agreement will entitle Partner to any priority of supply in relation to the Managed Services, authorized Products, or authorized Support and Professional Services as against F5's other partners, resellers, distributors or customers. Any additional or different terms including terms in any purchase order or order confirmation will have no effect unless expressly agreed to in writing by the parties. Partner acknowledges that any Software delivered hereunder is licensed and not sold and any reference to the "sale" of any Software hereunder means the sale of a license to use such software in accordance with Section 4.

3. **Ordering and Delivery.**

(a) Through Distribution.

(i) Unless otherwise agreed in writing by F5, Partner will procure Products from an F5 Authorized Distribution Partner in accordance with this Agreement and the terms of sale by and between Partner and the F5 Authorized Distribution Partner. Partner will submit purchase orders to an authorized F5 Authorized Distribution Partner (a list of which is available from F5 upon request) and all terms relating to Product ordering, delivery, payment, taxes and fees will be as set forth in Partner's agreement with such F5 Authorized Distribution Partner. For clarification, Partner shall purchase each Product used by Partner or an Affiliate or distributed or otherwise made available to an Affiliate or End User, except as otherwise described herein.

(ii) Taxes. As between Partner and F5, Partner will be responsible for the payment of all applicable sales, use, VAT and other similar taxes, as well as all penalties and interest, with respect to Partner's purchase of the Products. For Products shipped from a USA point of origin to a Partner-specified destination within the USA, sales and use tax may be due unless the Partner or applicable distributor provides F5 the appropriate documentation of a resale exemption from sales and use tax. If no such exemption is documented Partner shall be responsible for and pay any and all such tax. If any withholding tax is required to be made by applicable law, Partner will pay such withholding tax to relevant authorities and provide F5 with documentation that such withholding tax was remitted to the proper taxing authority. Partner will timely request to F5 any tax

forms or documentation needed to reduce or eliminate the amount of any withholding tax with respects made under this agreement.

(b) **Direct Purchases.** In the event that F5 authorizes Partner to purchase directly from F5, the following provisions will apply and are only applicable where an order is processed by F5 directly, rather than an authorized F5 Advantage Distribution Partner. For clarification, Partner shall purchase each Product used by Partner or an Affiliate or distributed or otherwise made available to an Affiliate or End User, except as otherwise described herein.

(i) **Prices and Price Changes.** Partner will be entitled to purchase F5 Products and Services at prices and discounts that are defined in F5's then current F5 price list for the region of purchase and any minimum discounts set forth in a pricing exhibit to this Agreement. F5 will be free to change list prices at any time and without advance notice to Partner. If F5 increases its list prices, all Products shipped on or after the effective date of such increase will be at the new higher price, except that F5 will honor all accepted Partner purchase orders that were received prior to notice of the price increase at the prices in effect at the time the order was received. F5 will protect Partner from price increases for outstanding quotations for up to 30 days provided that Partner gives written notification of such quotes (including a copy of the quotation) within 10 days after the effective date of the new price.

(ii) **Purchase Orders, Invoicing and Payment.** Partner may purchase Products or Services under this Agreement by submitting a purchase order to F5. F5 will have 15 days to accept or reject any purchase order. F5 will provide Products or Services under this Agreement pursuant to purchase orders that are accepted by F5. F5 will invoice upon shipment of the Products. Payment terms will be net 30 days from date of invoice, and all payments will be made in US dollars. F5 may accept payment in any amount without prejudice to its right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying a check or payment or elsewhere will be construed as an accord or satisfaction. If Partner fails to make any payment when due and fails to cure any non-payment within 30 days, F5 may withhold further shipments until the past-due payment is made, and may require that subsequent orders be paid for prior to or upon delivery of shipment. In addition, overdue payments may be charged interest at the lesser of 1.5% per month or the maximum interest allowed by law. If F5 is required to retain a collection agency or attorney to collect overdue payment, all reasonable collection costs, including attorney fees, will be payable by Partner.

(iii) **Taxes.** In addition to the purchase price, Partner will be responsible for the payment of all applicable sales, use, VAT and other similar taxes, as well as all penalties and interest, with respect to Partner's purchase of the Products. For Products shipped from a USA point of origin to a Partner-specified destination within the USA, sales and use tax may be due unless the Partner or applicable distributor provides F5 the appropriate documentation of a resale exemption from sales and use tax. If no such exemption is documented Partner shall be responsible for and pay any and all such tax. If any withholding tax is required to be made by applicable law, Partner will pay such withholding tax to relevant authorities and provide F5 with documentation that such withholding tax was remitted to the proper taxing authority. Partner will timely request to F5 any tax forms or documentation needed to reduce or eliminate the amount of any withholding tax with respects made under this agreement.

(iv) **Shipment and Delivery.** F5 will ship all Products FCA F5's manufacturing facility (Incoterms 2010). F5 will not insure the shipment unless specifically requested by Partner. Partner is responsible for all shipping and handling charges including, but not limited to, premiums for freight insurance, inspection fees, assessments, import duties, V.A.T. and similar taxes and all other costs incurred in transporting the Products to the shipping destination. Such costs will be prepaid by F5 and added to Partner's invoice except for import duties and taxes which will be paid directly by the Partner. Title to, and all risk of loss of or damage to, all Products purchased from F5 will pass to Partner upon delivery to the first carrier. Partner will be responsible for any claims against the carrier arising from or relating to shipment.

4. **Grant of Licenses.**

(a) **Use License.**

(i) Where Partner has procured Products from F5 under the terms and conditions of this Agreement, F5 grants to Partner a non-exclusive, non-transferable, perpetual license to use the Software for which Partner has paid the required license fees in object code form solely for Partner's use in the provision of Managed Services. Partner may grant End Users the right to use and access the Software solely as necessary for their receipt of the Managed Services from Partner and provided that Partner requires the End User's to comply with the terms of this license. Partner is responsible for the compliance of its End Users with the terms of this license.

(ii) Where an End User has purchased F5 hardware and/or licensed Software from F5 or an F5 Authorized Distribution Partner and engages Partner for Managed Services of such F5 hardware and Software, F5 hereby grants to Partner a non-exclusive, non-transferable, revocable license, to install, operate, and use the Software in providing Managed Services to such End Users from Partner's data center(s) or at the End User's designated location(s). Partner may, at no additional charge by F5,

use the Software with multiple End Users. The foregoing shall be permissible notwithstanding any conflicting provision(s) in the EULA which provide otherwise.

(b) Other than as specifically described herein, no right or license is granted to any of F5's trademarks, patents, copyrights, or other intellectual property rights and F5 retains all rights not granted herein. The Software incorporates certain third party software, which is used subject to licenses from the respective owners. The third party software is identified in the Software release notes for the Software version available at <http://askf5.com>. The protections given to F5 hereunder also apply to the suppliers of this third party software. Partner acknowledges that it is not required to access the source code in order to fulfill its duties under this Agreement or to otherwise foster interoperability of F5's Products.

(c) Partner's use of the Software is limited to the use in conjunction with the F5 supplied hardware platform on which the Software is intended to be run, except as otherwise described in an applicable EULA. Upon payment of all maintenance and support fees, Partner is granted a non-exclusive, non-transferable license to updated versions of the covered Software, such as bug fixes and new releases, that are generally made available at no additional cost to F5's customers that have ordered maintenance services for the relevant time period. The foregoing right will not include any options, upgrades or future Software which F5 or third party vendors charge for as a separate product or where Partner's installed hardware platform has no further upgrades available according to either (i) the applicable F5 Software release notes provided with each release and also available for review via the Ask F5 service or (ii) a written end-of-life announcement communicated to Partner by F5. F5 is not obligated to provide hardware upgrades to ensure compatibility with new Software versions of its Products or to ensure that new Software versions of its Products are compatible with outdated hardware platforms.

(d) **Restrictions and Title.** Partner and Affiliates will not copy (except for the purposes of making a backup copy of the Software), reverse engineer, disassemble or de-compile the Software, or sell, sub-license, rent or transfer any Software or any associated documentation to any third party (other than as specifically provided for in this Agreement). Partner acknowledges that the Software, including any related rights are owned by F5 or its third party licensors.

(e) **Further License Terms.** Any software provided to Partner hereunder is also subject to the terms of the End User License Agreement (EULA) delivered with the Products. In the event of any material conflict between the terms of the EULA and the terms of this Agreement, the terms of this Agreement will prevail.

5. **Managed Service Provider Obligations.**

(a) **Program Administration.** Partner shall comply with all administrative requirements of the F5 Partner Program. In addition, Partner agrees that program specifications may be communicated via the PC and Partner will ensure that it has sufficient personnel available to monitor the PC and administer the F5 Partner Program.

(b) **Marketing Activities.** Partner will use commercially reasonable efforts to actively market and promote, at Partner's expense, the authorized Products and authorized Support and Professional Services within the Authorized Territory under the terms of this Agreement. Partner will provide adequate financial and other resources, and will maintain facilities and staff adequate to properly market and promote in a timely, diligent and professional manner the Managed Services in accordance with the Partner's obligations under this Agreement.

(c) **Software License Terms.** Partner will use its best efforts to advise F5 promptly of any breach of the Software license terms set forth in Section 4 above.

(e) **Demonstration Products.** Partner may be entitled to purchase Products for demonstration purposes at a discount from F5's standard prices for such Products ("**Demonstration Products**") in accordance with (g) F5 Channel Partner Policies and Procedures. Except as provided herein, Partner will not sell, rent, distribute, or transfer the Demonstration Products to any third-party. Partner may only use Demonstration Products for customer demonstrations and internal training. Partner may also be eligible to participate in F5's "**StrongBox**" evaluation program, subject to the terms and conditions of such program. StrongBox units and related Software evaluation keys are not for resale to third parties.

(f) **Records and Quarterly Business Plan.** Partner will maintain accurate records of all sales of Products and Support and Professional Services, including the names and addresses of the End Users, the date the Product or Service was initially sold, and any purchase orders or agreements evidencing such sales. Partner will maintain such records for at least three (3) years from the date of termination of this Agreement. If requested by F5, Partner will also participate in periodic business reviews with F5 and will comply with any applicable partner plan requirements as agreed to by F5 and Partner. If Partner fails to materially comply with an applicable partner plan, F5 may terminate this Agreement for cause pursuant to Section 11.3.

(g) **Opt-Out Requirement.** To the extent, if any, Partner uses customer records for the promotion or sale of Products or Support and Professional Services pursuant to this Agreement, Partner will provide: (i) an "unsubscribe" or "opt-out" option on every marketing piece sent to a customer regardless of form, and (ii) any other appropriate disclosures regarding the nature of the solicitation, opt-out procedures and other notices as required by law. Additionally, Partner will comply with all applicable directives, laws, statutes, ordinances, and regulations that are related to privacy, use and protection of customer data and related rights. If and as required by mandatory provisions of applicable national law, Partner shall obtain and document a customers' specific consent for use of their data in accordance with and for the purposes contemplated in this Agreement.

(h) Marketing Materials. Partner shall comply with F5's branding, marketing and trademark usage guidelines and restrictions. Partner will not make any representations or statements regarding the Managed Services other than those contained in the sales and marketing literature and promotional materials provided by F5 without the prior written approval of F5. Partner will use only marketing materials supplied by F5 or such other materials which F5 approves in advance. Upon notice from F5, Partner will discontinue use of any marketing literature or promotional materials that F5 no longer approves. Partner will represent the Products and Support and Professional Services to customers in a knowledgeable and professional manner and will not represent any Product or Service in a manner which is false or misleading or which may adversely affect the reputation or goodwill of F5.

(i) Support. If Partner participates in a Support Program, Partner shall comply with applicable qualification and service level requirements as set forth in the Support Program or the applicable support agreement between F5 and Partner.

(j) Minimum Purchase Requirements. Partner shall satisfy all Minimum Purchase Requirements in order to maintain Partner's partner tier level.

(k) Approvals. Partner shall obtain and maintain at its own expense all approvals, consents, permissions, licenses, and other governmental or other third party approvals necessary for Partner to market, distribute, and, if applicable, support the Products and Support and Professional Services. Partner will comply with all applicable laws, statutes, ordinances, directives, and regulations that apply to the activities of Partner in connection with this Agreement including, but not limited to, relevant privacy and piracy laws.

(l) Partner Conference. If invited by F5, Partner, at its expense, shall send appropriate personnel to attend F5's annual partner conference.

6. **Evaluation Products**. From time to time and in F5's sole discretion, it may make Products available for evaluation by Partner. Such evaluations will be subject to the terms of this Section.

(a) When Partner wishes to receive a Product from F5, together with associated manuals and documentation (collectively, "**Evaluation Product**"), to test and evaluate such Evaluation Product for purchase by Partner for Partner's own use, or for resale either separately or as an integrated part of Partner's product and F5 agrees to such evaluation, the parties will execute an Evaluation Schedule in the form required by F5. F5 is willing to loan the Product to Partner for evaluation purposes, subject to the terms of this Section.

(b) The "**Evaluation Period**" begins on the Effective Date and ends on the Expiration Date stated in the applicable Evaluation Schedule. The Evaluation Period can be extended at F5's sole discretion, upon written approval by F5. No Product will be shipped or loaned unless and until an Evaluation Schedule is fully executed by both parties.

(c) Ownership of and title to the Evaluation Product will remain with F5 at all times. Partner will not represent or assert any ownership interest in the Evaluation Product and will act as F5's bailee for the Evaluation Product. On F5's request, Partner will execute any documents necessary to perfect F5's ownership interest in the Evaluation Product. Partner will keep the Evaluation Product free of liens, attachments, and other encumbrances. Partner agrees that F5 may attach F5's ownership label on the Evaluation Product at any time during the Evaluation Period, and that Partner will not remove any such label. Partner may not copy or translate the written materials included with the Evaluation Product without F5's prior written consent.

(d) The parties specifically agree that the results of Partner's evaluation of the Product will not be disclosed to any third party without F5's prior written consent.

(e) During the term of the Evaluation Period, F5 grants Partner a non-transferable, non-exclusive license to use any software included with or as a part of the Evaluation Product solely for the purposes stated in this Section. Partner may not, without F5's prior written consent, copy, modify, reverse compile, reverse engineer, sell, license, rent or transfer such software or any documentation related thereto to any third party.

(f) Partner will not lease, sublease, assign, or otherwise transfer or dispose of the Evaluation Product. Partner will not remove, move, or relocate the Product from its Ship To Location identified in the Evaluation Schedule without prior written approval from F5.

(g) The Evaluation Product is provided "AS IS" and possibly with faults. F5 DISCLAIMS ANY AND ALL WARRANTIES AND GUARANTEES, EXPRESS, IMPLIED OR OTHERWISE, ARISING, WITH RESPECT TO ANY EVALUATION PRODUCT DELIVERED HEREUNDER, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY, THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF NON-INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. PARTNER WILL USE THE EVALUATION PRODUCT AT ITS OWN RISK. F5 WILL NOT BE LIABLE TO PARTNER FOR ANY DIRECT OR INDIRECT DAMAGES INCURRED IN USING THE PRODUCT. IN NO EVENT WILL F5 BE LIABLE FOR LOSS OF PROFITS, LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTION, NOR FOR PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OF ANY KIND, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(h) Partner understands and acknowledges that, except for the use(s) expressly permitted in this Section 6, no license, express or implied, by estoppel, inducement, or otherwise, to any F5 patent, copyright, trade secret or other intellectual property rights is granted by this Agreement or by the loan of F5's Evaluation Product. If Partner is evaluating F5's Evaluation Product for integration into Partner's product, Partner remains solely responsible for the design, sale, and functionality of its product, including any liability arising from product infringement or product warranty.

(i) Each evaluation will terminate no later than the Expiration Date listed in the Evaluation Schedule. Upon termination of the Evaluation, or at F5's request, Partner will promptly return the Evaluation Product to F5 by suitably secure courier with active tracking (i.e. - Federal Express), or otherwise as requested by F5 in equivalent working condition as when delivered to Partner, excepting reasonable wear and tear. At the time of termination, or when sooner requested by the disclosing party, the receiving party will promptly return or destroy and certify destruction of all confidential information which it received along with all copies which it made.

Any and all Evaluation Product provided under this Agreement will be promptly returned to F5 upon F5's request.

(j) Partner agrees to promptly report any problems arising out of the use of the Product to the F5 representative named in the Evaluation Schedule. Partner acknowledges that F5 will provide Standard Maintenance support for the Evaluation Product in accordance with its support policies for Evaluation Products.

(k) Any purchase of the Evaluation Product by Partner will be subject to the terms of any end-user license agreement applicable to the Product and the remaining terms of this Agreement. F5 may invoice the Partner, at the Product list price, for any impaired Products or components with respect to which the damage to such Products or components is attributable to actions taken by Partner or any of its agents.

(l) If Partner uses the Product or any included software by or for any unit or agency of the United States Government, this provision applies. The Product and any associated documentation shall be classified as "commercial computer software" and "commercial computer software documentation" as such terms are defined in the Federal Acquisition Regulation (the "FAR") and its supplements. F5 represents that the Product was developed entirely at private expense, that no part of the Product was first produced in the performance of a Government contract. Consistent with FAR 12.212 and DoD FAR Supp. 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporate, Partner will acquire and may provide to a Government end user the software and any software documentation with only those rights set forth in this Agreement. Use of either the software or documentation or both constitutes acknowledgment of F5's and its licensors' rights in the Product.

7. Non-Production Products.

(a) From time to time, Partner may agree to purchase certain F5 products at a discount from F5's standard list prices for such products based upon Partner's agreement that it will only use those products in a non-production environment as set forth below. Each such product will be considered a "**Non-Production Product**". The discount applies to the hardware and the included operating system only (add on Software modules and Support and Professional Services are not discounted). Any Software included with the Non-Production Product is licensed not sold and is subject to the terms of this Agreement and its standard End User License Agreement. In order to qualify for the discounted pricing applicable to Non-Production Products, each purchase order for a Non-Production Product must correspond to and identify F5's written quote for a Non-Production Product or include a written substantially similar to, the following: "This purchase order is for the purchase of non-production goods and the undersigned agrees and acknowledges that any goods or services ordered hereunder will be subject to the terms and conditions of the Master Agreement with F5 previously executed by Partner."

(b) Partner may use a Non-Production Product to test and evaluate Partner's Internet system but not to manage Internet traffic in the ordinary course of Partner's business. Partner may derive no revenue from any Internet system while it is operated using a Non-Production Product. F5 may, at reasonable times and upon reasonable notice, and subject to Partner's reasonable confidentiality and security requirements, audit Partner's use of a Non-Production Product in order to verify compliance with this Agreement. In the event Partner is determined to have used the Non-Production Product as a production unit in the course of any such audit, Partner will be responsible to pay F5 conversion fees as set forth below in sub-section (d) with respect to such Non-Production Product.

(c) Partner may not resell, transfer, lease or otherwise distribute the Non-Production Product. If Partner should do so in contravention of the foregoing, it will immediately pay to F5 the difference between the purchase price of the Non-Production Product and the now-current list price of an equivalent production product.

(d) Partner may convert a Non-Production Product into a production system by providing F5 or the F5 Authorized Distribution Partner who sold the unit with a purchase order equal to the difference between the purchase price of the Non-Production Product and the now-current list price less applicable allowances or negotiated discounts. Approval of this conversion will not be withheld as long as Partner (a) has not taken any action that would void F5's product warranty pursuant to its terms or F5's support policies and (b) is in compliance with F5's version support policy. Additionally, if the Product is not under a current maintenance agreement, Partner will be required to pay back dated maintenance and F5's standard applicable catch up or "lapsed service" fee to bring the maintenance on the Product current.

8. Maintenance Services (When Provided by F5).

(a) Unless Partner purchases maintenance and support through a third party, maintenance services will be provided to Partner under the terms of F5's support policies (including applicable fees) in effect on the date Partner

support is rendered. F5's support policies are available at <http://www.f5.com/about/guidelines-policies/> (the "Maintenance Services").

(b) **Fees.** The purchase price for the Maintenance Services will be that specified by F5 in its then-current standard price or as otherwise agreed between Partner and an F5 Authorized Distribution Partner in accordance with Section 3. All other Support and Professional Services will be at the rates specified in the applicable SOW.

9. **Limited Warranty.**

(a) **Software.** F5 warrants that for a period of ninety (90) days from the date of shipment: (i) the media on which the Software is furnished will be free of defects in materials and workmanship under normal use; and (ii) the Software substantially conforms to its published specifications. Except for the foregoing, the Software is provided AS IS. In no event does F5 warrant that the Software is error free, that the Software will interoperate with any software or hardware other than that provided by F5 or specified in the documentation, or that the Software will satisfy Partner's own specific requirements.

(b) **Hardware.** F5 warrants that the hardware component of any Product will, for a period of one (1) year from the date of shipment by F5, be free from defects in material and workmanship under normal use.

(c) **Support and Professional Services.** F5 warrants that any Support and Professional Services it performs under this Agreement will be provided by qualified personnel in a competent, workmanlike and professional manner, consistent with generally accepted industry standards.

(d) **Remedy.** Partner's exclusive remedy under these limited warranties and any other guarantee made by F5 for F5, at F5's option, to repair or replace any Product or component that fails during the warranty period at no cost to Partner. Products returned to F5 must be pre-authorized by F5 with a Return Material Authorization (RMA) number marked on the outside of the package, and sent prepaid and packaged appropriately for safe shipment. The decision to issue an RMA will be at F5's reasonable discretion, subject to the warranty terms hereof. Only packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork will be accepted by F5's receiving department. All other packages will be rejected. The repaired or replaced item will be shipped to Partner, at F5's expense, no later than seven (7) days after receipt by F5. For Partners with Advance Exchange RMA approval through the purchase of the applicable Maintenance Services, a replacement Product or component will be shipped to Partner on the first business day following confirmation of the failure of the original Product or component per the terms of F5's support policies. F5 may invoice the Partner for any failed Products or components (a) with respect to which the damage to such Products or components is attributable to actions taken by Partner or any of its agents (including but not limited to the categories set forth in the "Restrictions" paragraph immediately below); or (b) not returned within ten (10) days of shipment of the replacement unit(s). Title to any returned Products or components will transfer to F5 upon receipt. F5 will replace defective Software media or Documentation or, at its option, undertake reasonable efforts to modify the Software to correct any substantial non-conformance with the specifications. Partner's remedy for breach of the Professional Services warranty is for F5 to re-perform any non-conforming Professional Services, provided that Partner provides F5 notice of such non-conformance within 30 days of the completion of such Professional Services.

(e) **Restrictions.** The foregoing limited warranties extend only to the original Partner, and do not apply if a Product (a) has been altered, except by F5 or its agents, (b) has not been installed, operated, repaired, or maintained in accordance with F5's instructions, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident or (d) has been operated outside of the environmental specifications for the Product. Any Software updates, upgrades or Software corrections do not extend the Software warranty period. The Product is not for resale.

10. **Export Restrictions.** Partner agrees to comply with the U.S. Export Administration Act, the Export Control Act, all regulations promulgated under such Acts, and all other US government regulations relating to the export of equipment, products and technical data produced therefrom, as well as any related local regulations regarding importing, exporting or using cryptographic software (the "**Regulations**"), and will not import, export or re-export the F5 Products in violation of the Regulations. Specifically, Partner agrees not to export or re-export the Products: (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the Products back to such country; (ii) to any person or entity who Distributor knows or has reason to know will utilize the Products or a portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government, including but not limited to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. Partner hereby represents and warrants that it is not located in, under control of, or a national or resident of any such country or on any such list.

11. **Term and Termination.**

11.1 **Term.** This Agreement will begin on the date that F5 has approved the Partner Application submitted by you on behalf of Partner (the "**Effective Date**"), and will continue for one year ("**Initial Term**"). Provided that Partner meets all of the criteria set forth in F5 Channel Partner Policies and Procedures and the F5 Partner Program, and has met its

Minimum Purchase Requirements, then the Agreement will automatically renew for successive one-year terms (each an "**Extension Term**"), unless earlier terminated in accordance with this Agreement.

11.2 Termination upon expiration of the Initial Term or Extension Term. Either party may terminate this Agreement at the end of the Initial Term or any Extension Term by providing written notice at least thirty (30) days prior to the end of the Initial Term or then current Extension Term.

11.3 Termination for Breach. Either party may terminate this Agreement upon thirty (30) days advance written notice to the other party if the other party materially breaches any term or condition of this Agreement and fails to cure such breach to the reasonable satisfaction of the non-breaching party within the thirty (30) day written notice period.

11.4 Termination for Insolvency. F5 may immediately terminate this Agreement if Partner becomes insolvent or the subject of a voluntary or involuntary petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors, if that proceeding is not dismissed with prejudice within sixty (60) days after filing. In addition to the foregoing, in the event Partner voluntarily files for protection against its creditors under the bankruptcy laws of any jurisdiction or is the subject of an involuntary petition in bankruptcy, Partner agrees that F5 will be entitled to retain all rights and benefits of this Agreement.

11.5 Termination for Failure to Meet Minimum Purchase Requirements. Partner's failure to achieve the Minimum Purchase Requirement for Partner's partner level as set forth in the F5 Partner Program may result in the termination of this Agreement by F5, in its sole discretion, upon thirty (30) days written notice. Alternatively, F5 may reduce Partner's partner tier designation for failure to meet the Minimum Purchase Requirements.

11.6 Termination for Due Diligence Screening Failure. F5 may immediately terminate this Agreement on notice to Partner in the event Partner refuses to cooperate in or fails any Due Diligence Screening.

11.7 Effect of Termination

(a) Monies Due and Payable. Notwithstanding any credit terms previously established with Partner or any other provision of this Agreement, upon notice of termination of this Agreement, all monies owed by Partner to F5 will become immediately due and payable. Overdue amounts will be subject to a late payment charge of one and one-half percent (1.5%) per month, or the maximum amount allowed by law, whichever is less.

(b) Fulfillment of Partner Orders. Upon delivery of a notice of breach or notice of termination of this Agreement, F5 will not be obligated to fulfill any orders received after the date of such notice. F5 may, in its sole discretion, continue to fulfill orders provided that Partner (i) submits prepayments for any such order and (ii) pays all outstanding obligations to F5 prior to any shipment.

(c) Return of Materials. Within thirty (30) days after the termination of this Agreement, Partner, at its own expense, will return to F5 all F5 Confidential Information and Confidential Materials (as defined in Section 12), data, photographs, samples, literature and sales aids, and any other property of F5 then in Partner's possession.

(d) No Termination Compensation. Except as expressly set forth herein, the parties expressly agree that no damages, indemnity or termination benefits whatsoever (including, without limitation, any compensation for goodwill established by Partner during the term of this Agreement or for any lost profits or expenses of Partner) will be due or payable to Partner by reason of any termination of this Agreement in accordance with its terms, and Partner expressly waives the application of any statute, law or custom to the contrary.

(e) Other Remedies. In addition to the right to terminate this Agreement, F5 reserves all rights and remedies available to F5 at law or in equity, including the right to seek damages and injunctive relief for breach or threatened breach of this Agreement by Partner.

(f) Surviving Provisions. The terms and conditions of this Agreement which are expressly stated to survive, or by their nature should survive, will survive and continue after termination or expiration of this Agreement.

12. **Confidentiality.**

12.1 **"Confidential Information"** means nonpublic information that either party discloses, or has disclosed, to the other which is designated as being confidential or proprietary, or which is of a nature or presented under circumstances that would cause one to reasonably conclude it should be treated as confidential. Confidential Information includes, without limitation, information relating to either party's inventions, Intellectual Property, research, testing results, released or unreleased products or services, marketing or promotion of any products or service, pricing, contracts, business plans, policies and practices, and information received from others that either party is obligated to treat as confidential. **"Confidential Materials"** further means all tangible materials containing Confidential Information including, without limitation, written or printed documents and computer disks or tapes, whether machine or user readable. Without limiting any of the foregoing, Partner acknowledges that the details of the F5 Partner Program and F5's Channel Partner Policies and Procedures are Confidential Information of F5 and use or disclosure of such information in violation of this Agreement will be considered a material breach of this Agreement. Confidential Information will not include any information that: (i) is or subsequently becomes publicly available without the receiving party's breach of any obligation of confidentiality owed to the disclosing party; (ii) was known to the receiving party without a duty of confidentiality prior to disclosure of such information by the disclosing party; or (iii) is independently developed by the receiving party without the use of any Confidential Information received from the disclosing party.

12.2 Each party expressly acknowledges that the Confidential Information of the other party consists of trade secrets and proprietary information having significant commercial value, and that knowledge of all or any part of the Confidential Information would potentially yield a competitive advantage over others not having such knowledge.

Accordingly, neither party will use the Confidential Information except as reasonably necessary for the performance of its obligations under this Agreement and will not disclose the Confidential Information of the other party to any third party except to receiving party's directors, officers, employees, or consultants or those of its parent or subsidiary companies to the extent necessary to carry out the purposes of this Agreement, provided that all such recipients are obligated by a written agreement of confidentiality no less restrictive than the terms described herein. Each party will take such steps as may be reasonable in the circumstances, or as may be reasonably requested by the other party, to prevent any unauthorized disclosure, copying or use of the Confidential Information by such third parties. Each party may also disclose Confidential Information to the extent required by judicial or governmental order or as necessary to comply with any applicable law or regulation governing regulated businesses or the issuance of securities to the public, provided that the party making the disclosure gives the other party reasonable notice prior to such disclosure and, in the case of a judicial or governmental order, complies with any applicable protective order or equivalent.

12.3 Each party will promptly return all originals, copies, reproductions and summaries of Confidential Information and Confidential Materials at the other party's request. Each party acknowledges that monetary damages may not be a sufficient remedy for the unauthorized disclosure of Confidential Information of the other party, and the disclosing party will be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction without necessity of posting a bond. The parties' obligations under this Section will survive the expiration or termination of this Agreement.

12.4. Protection of Personal Data. Other than at the specific request of F5, the Partner will not disclose or allow access to any personal data (as defined in the applicable Commonwealth, State or Territory Acts or regulations [collectively the "**Privacy Acts**"]) whether provided by F5 or acquired by the Partner during the course of tendering for or executing this Agreement, other than to a person placed by the Partner under a like obligation who is employed or engaged by the Partner, any subsidiary, employee, agent or other person within the control of the Partner concerned with the performance of this Agreement. The Partner agrees that it and its subsidiaries, agents or any other person(s) in the control of the Partner, will process the personal data as referred to above in accordance with the data protection principles as set out in the Privacy Acts.

13. **Infringement Indemnity.**

(a) Indemnification by Partner. Partner will defend and indemnify F5 from and against any and all claims, damages and expenses (including reasonable attorneys' fees and costs of litigation) by any third party resulting from any acts or omissions of Partner relating to its activities in connection with this Agreement, Partner's breach of this Agreement, or Partner's misrepresentations relating to F5, the authorized Products, the authorized Support and Professional Services or this Agreement, regardless of the form of action. Partner will be solely responsible for any claims, warranties or representations made by Partner or Partner's representatives or agents which differ from the warranties provided by F5 in this Agreement.

(b) F5 will, at its expense, defend any suit brought against Partner by an unaffiliated third party based upon a claim that a Product or Service infringes a valid patent, trademark or copyright or misappropriates a third party trade secret. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act, except in case of claims arising under any claim governed by the laws of any jurisdiction outside the United States, in which case "misappropriation" will mean intentionally unlawful use and "trade secret" will mean "undisclosed information" as specified in Article 39.2 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. F5 will pay costs and damages (including reasonable attorneys' fees) finally awarded against Partner or agreed in settlement by F5 directly attributable to any such claim, but only on condition that (a) F5 is notified in writing of such claim promptly following receipt by Partner, (b) F5 has sole control of the defense and settlement negotiations, (c) Partner provides F5 all non-privileged information and communications received by Partner concerning such claim, and (d) Partner provides reasonable assistance to F5 when requested. Partner will have the right to participate in the defense with counsel of its own choosing at its expense provided that such representation does not interfere with F5's right to control the defense.

(b) F5 will have the right, at its option and expense, (i) to obtain for Partner rights to use the Products, (ii) to replace or modify the Products so that they become non-infringing, or (iii) to accept return of the Products in exchange or for a credit not to exceed the purchase price paid by Partner for such Products based upon a three year straight line depreciation. The foregoing, subject to the following restrictions, states the exclusive liability of F5 to Partner concerning infringement.

(c) Restrictions. F5 will have no liability for any claim of infringement based on: (i) use of a superseded release of a Product or Service where the subsequent release is equally available to Partner and is non-infringing, (ii) use of a Product or Service in combination with equipment or software not supplied by F5 where the Product or Service would not itself be infringing, (iii) use of the Product or Service in an application or environment not described in the Product Documentation; (iv) software or technology not developed by F5 or (v) Products or Support and Professional Services that have been altered or modified in any way by anyone other than F5 or its agents.

14. **DISCLAIMER; LIMITATIONS OF LIABILITY.** EXCEPT FOR THE WARRANTIES SPECIFICALLY DESCRIBED HEREIN, F5 (INCLUDING ITS THIRD PARTY SUPPLIERS) DISCLAIMS ANY AND ALL WARRANTIES AND GUARANTEES, EXPRESS, IMPLIED OR OTHERWISE, ARISING, WITH RESPECT TO THE PRODUCTS,

SPECIFICATIONS, OR SERVICES DELIVERED HEREUNDER, INCLUDING BUT NOT LIMITED TO THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. F5 HAS NOT AUTHORIZED ANYONE TO MAKE ANY REPRESENTATION OR WARRANTY OTHER THAN AS PROVIDED ABOVE. THE COLLECTIVE LIABILITY OF F5 AND ITS THIRD PARTY SUPPLIERS UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNTS PAID TO F5 DURING THE PREVIOUS CALENDAR YEAR. F5 (INCLUDING F5'S THIRD PARTY SUPPLIERS) WILL NOT HAVE ANY OBLIGATION OR LIABILITY, WHETHER ARISING IN CONTRACT (INCLUDING WARRANTY), TORT (INCLUDING ACTIVE, PASSIVE OR IMPUTED NEGLIGENCE, STRICT LIABILITY OR PRODUCT LIABILITY) OR OTHERWISE FOR ANY PUNITIVE, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTION, LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH ANY OF THE PRODUCTS OR OTHER GOODS OR SERVICES FURNISHED TO PARTNER BY F5, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

F5 ALSO SPECIFICALLY DISCLAIMS ANY WARRANTIES WITH RESPECT TO (A) ANY WORK PRODUCT OF ANY THIRD PARTY WITH WHOM PARTNER CONTRACTS DIRECTLY FOR THE PROVISION OF CONSULTING/IMPLEMENTATION SERVICES IN CONNECTION WITH THE PRODUCT; OR (B) ANY SOFTWARE OR TECHNOLOGY NOT DEVELOPED BY F5 OR ITS AGENTS.

15. General Provisions.

(a) **Assignment.** This Agreement may not be assigned or transferred by either party without the prior written permission of the other party, which permission will not be unreasonably withheld. Any attempted assignment without such consent will be void. Notwithstanding the foregoing, either party may assign this Agreement, without the other party's permission, in connection with any merger, consolidation, sale of all or substantially all of the assigning party's assets, or any other similar transaction, so long as the prospective assignee is not a direct competitor of the other party. In addition, Partner agrees that F5 may subcontract any consulting services to be performed in connection with the Products provided that any such subcontracting arrangement will not relieve F5 of any of its obligations hereunder.

(b) **Relationship of the Parties.** This Agreement is not intended to create a relationship such as a partnership, franchise, joint venture, agency, or employment relationship. Neither party may act in a manner which expresses or implies a relationship other than that of independent contractor, nor bind the other party.

(c) **Audit Rights.** F5, in its sole and absolute discretion, may conduct an audit of the financial and other records of Partner for the purpose of validating the Partner reports identified above in Section 5(f) and otherwise ensuring that Partner is complying with the terms of this Agreement. F5 will bear the cost of such audit, unless the audit determines that Partner has underpaid F5 by more than five percent (5%) for any F5 fiscal quarter OR unless such audit reveals the Partner is not in compliance with this Agreement. In the event of an underpayment by Partner, Partner will pay to F5 the full amount of any underpayment disclosed by such audit, plus interest at the rate of one and one-half percent (1.5%) per month or the highest rate allowed by law, whichever is lower, within five (5) days of F5's notification of such underpayment. In the event of underpayment by Partner in excess of five percent (5%) or a material breach of this Agreement is discovered, Partner will bear the cost of the audit in addition to all other rights F5 has under this Partner Agreement, at law or in equity.

(d) **Anti-Bribery and Anti-Corruption Compliance.** Partner will comply with the F5 Partner Code of Conduct and the requirements of the U.S. Foreign Corrupt Practices Act (FCPA) and the UK Bribery Act (UKBA), as may be amended from time to time, as well as all other applicable local laws and regulations prohibiting bribery or regulating payments to government officials and private persons in the Authorized Territory, and will not offer or accept money or anything else of value to or from any private person, agent, or representative of any government or government agency in order to obtain or retain business. Partner will provide true, accurate, and complete information in all product orders, reimbursement requests, and other communications relating to F5 and its Products and Services.

(e) **Publicity.** Partner may not issue any press release or any other public announcement regarding this Agreement or any aspect of its relationship with F5 without the prior written consent of F5, which F5 may withhold in its sole discretion.

(f) **No Third Party Beneficiaries.** Except where expressly provided to the contrary, this Agreement is not intended to be for the benefit of, and will not be enforceable by, any person who is not named at the date of this Agreement as a party to it, or any person who claims rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party.

(g) **Governing Law; Dispute Resolution.** This License will be governed and construed in accordance with the following governing law ("**Governing Law**"), depending on the applicable undersigned F5 entity, without regard to its choice of law rules:

Location:	Governing Law:	Venue:
F5 Networks Singapore Pte Ltd	The laws of Singapore	Singapore
F5 Networks Ltd.	The laws of England and Wales	London, England
F5 Networks, Inc.	The laws of the State of Washington	Seattle, Washington

The parties agree that this Agreement will not be governed by the 1980 U.N. Convention on Contracts for the International Sale of Goods and that English is the governing language of this Agreement and the parties elect to exclude the applicability of Uniform Computer Information Transactions Act in whatever form it may be adopted. In the event of any dispute arising out of or relating to this Agreement, the parties shall seek to settle the dispute via direct discussions. If a dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute via voluntary non-binding mediation, before resorting to arbitration. A mediator will be selected by voluntary agreement of both parties, or in the event both parties cannot agree on a mediator, a mediator will be selected in accordance with the rules of JAMS. The mediation shall be held in the applicable venue ("**Venue**") identified in the chart above. Each party shall bear its own costs and expenses and an equal share of the administrative and other fees associated with the mediation. Any dispute that remains unresolved following mediation shall be settled by arbitration administered by the JAMS in accordance with its Comprehensive Arbitration Rules. The place of arbitration shall be the applicable Venue. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitrator(s) shall award to the prevailing party, if any, as determined by the arbitrator(s), all of its costs and fees. "Costs and fees" mean all reasonable pre-award expenses of the arbitration, including the arbitrators' fees, administrative fees, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees, and attorneys' fees. In rendering the award, the arbitrator(s) shall determine the rights and obligations of the parties according to the substantive and procedural laws of the applicable Governing Law. Either party may seek a temporary restraining order, temporary injunction or other interim or conservatory relief in any court of competent jurisdiction without violating this Section and without abridgement of the power of the arbitrator(s). The alternative dispute resolution provisions of this Section will not apply to claims related to the misappropriation, infringement, or violation of the intellectual property rights of either party or the violation of any confidentiality obligations contained herein and such actions may be brought in any court of competent jurisdiction.

(h) Force Majeure. Except for payment obligations, neither party will be liable for default under this Agreement due to delays in performance resulting from any cause beyond its reasonable control including, but not limited to, acts of God, weather, terrorism, strike or transportation difficulties.

(i) Severability. Any provisions found to be unenforceable will not affect the enforceability of the other provisions contained herein, but will instead be replaced with a provision as similar to the original as possible.

(j) Notices. All notices must be in writing in English and will be delivered personally (including overnight mail by private courier) or sent by first-class mail (return receipt requested) or facsimile transmission to the address listed in the signature page to this Agreement. Notice will be deemed to have been given at the time of delivery, twelve (12) hours after confirmation of receipt if sent by facsimile, and three (3) business days after mailing if sent by first-class mail. All notices to Partner shall be sent to the address provided to F5 as part of the Partner Application to the attention of Partner's legal department. All notices to F5 shall be sent to the address(es) of the undersigned F5 entity in the table below. Either party may change its address by giving the other party written notice in accordance with this Section 15(j).

F5 Entity:	Notice Address:	With a Copy to:
F5 Networks Singapore Pte Ltd	F5 Networks Singapore Pte Ltd Attn: Legal Department 5 Temasek Boulevard #08-01/02/05 Suntec Tower 5 Singapore 038985 Singapore	F5 Networks, Inc. Attention: Legal Department 401 Elliot Avenue West Seattle, WA 98119 USA
F5 Networks Ltd.	F5 Networks Ltd. Attn: Legal Department Chertsey Gate West 43-47 London Street Chertsey Surrey KT16 8AP United Kingdom	F5 Networks, Inc. Attention: Legal Department 401 Elliot Avenue West Seattle, WA 98119 USA
F5 Networks, Inc.	F5 Networks, Inc. Attn: Legal Department 401 Elliott Avenue West Seattle, WA 98119 USA	

(k) Entire Agreement; No Waiver. This Agreement and other documents specifically included by reference herein, including but not limited to the F5 Channel Partner Policies and Procedures and the F5 Partner Program, constitutes the entire agreement between the parties with regard to its subject matter. This document supersedes all prior communications, discussions, negotiations, proposed agreements and all other agreements, whether written or oral. F5 has not made and Partner has not relied upon any representations not expressly set forth in this document in making this Agreement. With the exception of F5 Channel Partner Policies and Procedures and the F5 Partner Program, this Agreement may be amended or modified only by a writing signed both by authorized individuals for F5 and Partner. It

is the express intent of the parties that this Agreement and any amendment hereto will be interpreted solely by reference to their written terms. No waiver of a breach of this Agreement will be valid unless in writing.

(l) Interpretation. This Agreement will not be construed in favor of or against any party by reason of the extent to which any party participated in the preparation of this Agreement.