

F5 NETWORKS UNITY RESELLER AGREEMENT

Last updated: 18 September 2020

BY ACCEPTING THIS F5 NETWORKS UNITY RESELLER AGREEMENT (THE “**AGREEMENT**”) IN CONNECTION WITH SUBMITTING A PARTNER APPLICATION FOR THE F5 UNITY PARTY PROGRAM – VALUE ADDED RESELLER (“**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 “**RESELLER**”), (2) REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF THE RESELLER, AND (3) AGREE THAT SUCH RESELLER 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 RESELLER’S OBLIGATIONS UNDER THIS AGREEMENT. IF YOU AND/OR RESELLER 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 Reseller) 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 (“**Reseller Information**”) and agree to maintain the security of your username(s) and password(s). You will maintain and promptly update the Reseller Information to keep it accurate, current and complete.

The Agreement is entered into by and between Reseller 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. Notwithstanding the foregoing, if the promotion, sale and Deliver is to End Users whose primary place of business is located in Japan, “**F5**” shall be deemed to be a reference to F5 Networks, Inc. through December 1, 2017 and to F5 Networks Singapore Pte Ltd on and from January 1, 2018.

1. **Definitions.**

1.1 “**Authorized Product(s)**” or “**Product(s)**” mean the F5 product(s), including Updates, Bug Fixes or Enhancements which Reseller is authorized to market and distribute to End Users. The Authorized Products are listed in the F5 Price List for the region of sale, as amended from time to time by F5.

1.2 “**Authorized Distributor**” means a distributor F5 has authorized to sell Authorized Products and Authorized Services to Reseller within an applicable Authorized Territory.

1.3 “**Authorized Services**” or “**Services**” means consulting, training, installation and other professional services and technical support and maintenance which Reseller is authorized to market and resell in accordance with the terms of this Agreement.

1.4 “**Authorized Territory**” means, individually, each country selected by Reseller during the Partner Application and approved by F5, within which Reseller is authorized to market and distribute Products and Services to End Users in compliance with F5 Channel Partner Policies and Procedures, and together, such countries are referred to herein as the “**Authorized Territories**”.

1.5 “**Deal Registration**” means the process set forth in the F5 Partner Program and the F5 Channel Policies and Procedures.

1.6 “**Due Diligence Screening**” means the process by which F5 screens prospective and current resellers, as further described in the F5 Channel Partner Policies and Procedures.

1.7 “**End User**” means a customer who has purchased an Authorized Product and/or acquired a license for the Software component of one or more Authorized Products from Reseller for the personal or business use of such customer and not for transfer or resale.

1.8 **"End User License"** 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).

1.9 **"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 programs and procedures for the acquisition and use of Demonstration Products or StrongBox Products (as referenced in Section 4.7) and other Reseller 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 Reseller. Interpretation and application of any F5 Channel Partner Policies and Procedures will be in F5's sole discretion.

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

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

1.12 **"F5 Price List"** means the then current list of recommended prices for Authorized Products and Authorized Services as published by F5, which F5 may amend in its sole discretion from time to time. The F5 Price List contains recommended pricing and is not binding on Reseller, who is free to negotiate individual prices with End Users.

1.13 **"Intellectual Property"** or **"Intellectual Property Rights"** means all intellectual, moral, industrial or proprietary rights recognized under applicable law anywhere in the world, whether issued or pending, registered or unregistered, including all forms of copyrights, patents, trademarks and service marks, and rights in trade secrets, and all tangible embodiments thereof.

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

1.15 **"Software"** means software delivered as part of the Authorized Products, and/or separately as an Authorized Product and includes (i) the machine-executable object code version of the user-loadable programs of the Authorized Products; (ii) the micro code (firmware) embedded in the Authorized Products; (iii) all related user documentation; and (iv) any Updates, Bug Fixes, and Enhancements or revisions of these programs or the micro code delivered to End Users.

1.16 **"Support Program"** means the End User support, training, authorization and tracking requirements as set forth in the F5 Channel Partner Policies and Procedures for any End User support program in which Reseller is enrolled.

1.17 **"Updates, Bug Fixes, and Enhancements"** collectively mean additions or corrections to any Software or Authorized Product(s) which (a) F5 designates as a modified or updated version of such Software or Authorized Product(s), and (b) requires the End User to whom it is distributed to have previously licensed the Software or Authorized Product(s) corresponding to such modified or upgraded version.

1.18 **"Value Added Services"** mean the services that Reseller must provide to qualify as a Value Added Reseller, as defined in the F5 Partner Program.

1.19 All references in this Agreement to the "sale" of or "selling" or "purchase" of Software will mean the sale or purchase of a license to use such Software.

2. **Appointment of Reseller.**

2.1 **Appointment.** Subject to the terms and conditions of this Agreement, upon approval by F5 of the Partner Application submitted by you on behalf of Reseller, F5 appoints Reseller as its non-exclusive Reseller for the promotion, sale and delivery of the Authorized Products and Authorized Services within each Authorized Territory solely to End Users. This appointment does not authorize any subsidiary or affiliate of Reseller to act as a reseller for F5 Products. Any such subsidiary or affiliate of Reseller needs to submit a separate Partner Application.

2.2 **Authorized Territory of Japan.** Notwithstanding Section 2.1, subject to the terms and conditions set forth in this Section 2.2, in connection with Reseller's promotion, sales and delivery of Authorized Products and Authorized Services solely within the Authorized Territory of Japan, Reseller may also sell and deliver Authorized Products and Authorized Services to its Business Partners (as defined herein) for the sale and delivery of such Authorized Products and Authorized Services to other Business Partners (and their Business Partners) or End Users, as applicable. As used herein, **"Business Partner"** means an entity located in Japan with whom the party selling and delivering Authorized Products and Authorized Services to such entity has a written agreement for resale activities with respect to such Authorized Products and Authorized Services. In no event will the terms and conditions governing any applicable resale agreement between Reseller and any such Business Partner, or between Business Partners, be less favorable to F5's position than the terms of this Agreement in any material respect, and Reseller hereby agrees to indemnify F5 (and its affiliates, customers, employees, successors and assigns) for any losses, damages or expenses

(including reasonable lawyers' fees) it may incur as a result of any breach of the foregoing. Reseller shall be responsible the performance and compliance of, and the act and omissions of, all Business Partners involved in the sale and delivery of Authorized Products and Authorized Services to an End User, and the acts and omissions of all such Business Partners shall be deemed acts or omissions of Reseller under this Agreement. Nothing in this Agreement, expressed or implied, including anything in this Section 2.2, is intended to confer upon, and shall not be construed to give, any Business Partner any rights or remedies under this Agreement. In addition, the provisions of this Section 2.2 are for the sole benefit of Reseller and F5, and not for the benefit of any third party, including, without limitation, any Business Partner.

2.3 Non-Exclusivity. Reseller acknowledges that its appointment under this Agreement is non-exclusive and 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 dealer, distributor, reseller, licensee or agent for F5 within an Authorized Territory or elsewhere. Nothing in this Agreement will entitle the Reseller to any priority of supply in relation to the Authorized Products or Authorized Services as against F5's other resellers, distributors or customers.

3. Term and Termination of the Agreement.

3.1 Term. This Agreement will begin on the date that F5 has approved the Partner Application submitted by you on behalf of Reseller (the "**Effective Date**"), and will continue for one year ("**Initial Term**"). Provided that Reseller 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.

3.2 Termination for Convenience. Either party may terminate this Agreement or any particular Authorized Territory upon thirty (30) days advance written notice.

3.3 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.

3.4 Termination for Insolvency. F5 may immediately terminate this Agreement if Reseller 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 Reseller voluntarily files for protection against its creditors under the bankruptcy laws of any jurisdiction or is the subject of an involuntary petition in bankruptcy, Reseller agrees that F5 will be entitled to retain all rights and benefits of this Agreement.

3.5 Termination for Failure to Meet Minimum Purchase Requirements. Reseller's failure to achieve the Minimum Purchase Requirement for Reseller'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 Reseller's applicable partner tier designation for failure to meet the Minimum Purchase Requirements.

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

3.7 Effect of Termination

(a) Return of Materials. Within thirty (30) days after the termination of this Agreement, Reseller, at its own expense, will return to F5 all F5 Confidential Information and Confidential Materials (as defined in Section 11), data, photographs, samples, literature and sales aids, and any other property of F5 then in Reseller's possession.

(b) 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 Reseller during the term of this Agreement or for any lost profits or expenses of Reseller) will be due or payable to Reseller by reason of any termination of this Agreement in accordance with its terms, and Reseller expressly waives the application of any statute, law or custom to the contrary.

(c) 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 Reseller.

(d) 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.

4. Reseller's Warranties and Obligations.

4.1 Reseller Warranties. Reseller represents and warrants:

(a) that it has the right to enter into this Agreement and to perform its obligations hereunder;

(b) that it has obtained any consents, approvals and other authorizations necessary for the performance of its obligations hereunder; and

(c) that it is familiar with the market for the Authorized Products and Services and is qualified to sell the Products and Services or will develop such expertise within a reasonable period of time.

4.2 Program Administration. Reseller shall comply with all administrative requirements of the F5 Partner Program, including but not limited to Deal Registration and other discount programs. In addition, Reseller agrees that program

specifications may be communicated via the PC and Reseller will ensure that it has sufficient personnel available to monitor the PC and administer the F5 Partner Program.

4.3 Marketing Activities. Reseller will use commercially reasonable efforts to actively market and promote, at Reseller's expense, the Authorized Products and Authorized Services within each Authorized Territory under the terms of this Agreement. Reseller 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 Authorized Products and Authorized Services in accordance with the Reseller's obligations under this Agreement.

4.4 Restrictions. Because of the complexity of the technology and the importance of proper installation, configuration and maintenance of the Products, except as otherwise specifically authorized in this Agreement, Reseller will remain a single-tier Reseller selling directly to End Users and Reseller is not authorized to act as an Authorized Distributor selling to other Resellers without F5 prior written permission. Reseller will not actively seek and sell to customers, or establish any branch or distribution depot for the Authorized Products or Authorized Services, in any country which is outside the Authorized Territories.

4.5 Value Added Services. Reseller will maintain written records confirming any Value Added Services offered pursuant to the F5 Partner Program.

4.6 End User License Terms. Reseller will use its best efforts to advise F5 promptly of any breach of the terms of the End User License.

4.7 Demonstration Products. Reseller may be entitled to purchase Authorized Products for demonstration purposes at a discount from F5's standard prices for such Authorized Products ("**Demonstration Products**") in accordance with F5 Channel Partner Policies and Procedures. Except as provided herein, Reseller will not sell, rent, distribute, or transfer the Demonstration Products to any third-party. Reseller may only use Demonstration Products for customer demonstrations and internal training. Reseller 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.

4.8 Records and Quarterly Business Plan. Reseller will maintain accurate records of all sales of Authorized Products and Authorized Services, including the names and addresses of the End Users, the date the Authorized Product or Service was initially sold, and any purchase orders or agreements evidencing such sales. Reseller will maintain such records for at least three (3) years from the date of termination of this Agreement. If requested by F5, Reseller will also participate in periodic business reviews with F5 and will comply with any applicable partner plan requirements as agreed to by F5 and Reseller. If Reseller fails to materially comply with an applicable partner plan, F5 may terminate this Agreement for cause pursuant to Section 3.3.

4.9 Opt-Out Requirement. To the extent, if any, Reseller uses customer records for the promotion or sale of Authorized Products or Authorized Services pursuant to this Agreement, Reseller 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, Reseller 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, Reseller shall obtain and document a customers' specific consent for use of their data in accordance with and for the purposes contemplated in this Agreement.

4.10 Marketing Materials. Reseller shall comply with F5's branding, marketing and trademark usage guidelines and restrictions as referenced in Section 7.1. Reseller will not make any representations or statements regarding the Authorized Products or Authorized Services other than those contained in the sales and marketing literature and promotional materials provided by F5 without the prior written approval of F5. Reseller will use only marketing materials supplied by F5 or such other materials which F5 approves in advance. Upon notice from F5, Reseller will discontinue use of any marketing literature or promotional materials that F5 no longer approves. Reseller will represent the Authorized Products and Authorized Services to customers in a knowledgeable and professional manner and will not represent any Authorized Product or Authorized Service in a manner which is false or misleading or which may adversely affect the reputation or goodwill of F5.

4.11 Support. Resellers participating in a Support Program shall comply with applicable qualification and service level requirements as set forth in the Support Program or the applicable support agreement between F5 and Reseller.

4.12 Minimum Purchase Requirements. Reseller shall satisfy all Minimum Purchase Requirements in order to maintain Reseller's applicable partner tier level.

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

4.14 F5 Channel Partner Policies and Procedures. Reseller will comply with all F5 Channel Partner Policies and Procedures, including, but not limited to, all terms and conditions set forth in the F5 Partner Program. Failure to comply with any of these policies and procedures shall be considered a material breach of this Agreement and will entitle F5 to terminate this Agreement for cause. F5 reserves the right to modify the F5 Channel Partner Policies and Procedures at any time. In connection with any new Authorized Products added to the Reseller Price List, F5 reserves the right to

require Reseller to comply with specified training and/or certification requirements as a condition to being authorized to distribute such Authorized Product(s). Reseller shall complete all training requirements necessary to achieve the minimum requirements for a Reseller as set forth in the F5 Partner Program guidelines within ninety (90) days of the Effective Date. Failure to meet such requirements will constitute a material breach of this Agreement.

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

5. F5 Sales, Marketing and Training Support. F5 will provide to Reseller certain sales and marketing information, assistance and training. To the extent applicable, such assistance may include on-site visits to Reseller's offices or customer locations as reasonably requested and on an as-available basis.

6. Reseller Purchases Through Distribution. Unless otherwise agreed in writing by F5, Reseller may only procure Authorized Products and Authorized Services from an Authorized Distributor located in the applicable Authorized Territory in accordance with this Agreement.

7. Trademarks, Trade Names and Intellectual Property.

7.1 Trademarks. During the term of this Agreement, Reseller shall have a nonexclusive, nontransferable right to represent that it is an F5 Authorized Reseller and to advertise the Authorized Products and Authorized Services within each of the Authorized Territory using F5's trademarks and marketing slogans ("**Trademarks**"). Reseller's use of the Trademarks in any literature, promotion, or advertising must be in accordance with F5's guidelines for such usage. Reseller shall not use F5's name or any F5 trademark(s) or trade name(s) in any Internet domain name. F5 may terminate this Agreement if Reseller contests, opposes, or challenges F5's ownership of the Trademarks. All use of the Trademarks shall inure to the sole benefit of F5. Effective upon the termination of this Agreement, Reseller will immediately cease using all Trademarks.

7.2 Title and Proprietary Rights. All Intellectual Property incorporated in the Authorized Products and Authorized Services and other materials included or provided with the Authorized Products and Authorized Services, whether in existence as of the Effective Date or created later, including Intellectual Property on any F5 web site (collectively the "**Materials**") remain at all times the property of F5 and its licensors. Reseller acknowledges and agrees that F5 or its licensors holds the copyright, patents or other Intellectual Property Rights to the Materials and, except as expressly provided herein, Reseller is not granted any other right or license to the Intellectual Property Rights contained in the Materials. Reseller will take all reasonable measures to protect F5's proprietary rights in the Materials and shall not copy, use or distribute the Materials, or any derivative thereof, in any manner or for any purpose, except as expressly authorized in this Agreement. Reseller shall not disassemble, decompile, or reverse-engineer the Materials, including any Authorized Product(s) source code, or otherwise attempt to discover any F5 trade secret or other proprietary information, or hack, impede, change or interfere with any F5 web site. Reseller 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. Reseller shall notify F5 promptly in writing upon its discovery of any unauthorized use of the Authorized Products or Authorized Services or infringement of F5's Intellectual Property Rights. Reseller shall not distribute any Authorized Product(s) or Authorized Services to any person or entity if Reseller is aware that such person or entity may be involved in potential unauthorized use of the Materials or other infringement of F5's Intellectual Property Rights. Reseller will not remove any trade name, trademark or other attributing mark or designation which F5 may place on any Authorized Product or Authorized Service, and will fully and fairly attribute the origin of the Authorized Products and Authorized Services.

8. Warranty, Disclaimers and Damage Limitations.

8.1 Limited Warranty. F5 makes the following limited warranties and disclaims all other warranties:

(a) Software. F5 warrants that for a period of ninety (90) days from the date of shipment: (i) the media on which the Software component of any Authorized Product 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 Authorized Product will operate with any software or hardware other than that provided by F5 or specified in the Authorized Product documentation, or that the Authorized Product will satisfy any End User's own specific requirements.

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

(c) Services. F5 warrants that it will perform any Authorized Services in a professional manner in accordance with industry standards and using qualified personnel.

(d) Remedy. The Reseller's exclusive remedy and the entire liability of F5 under this limited warranty and any other guarantee made by F5 is, at F5's option, to repair or replace any Authorized Product or component that fails during the warranty period or to re-perform at no additional cost any non-compliant Authorized Services of which F5 is given written notice within ninety (90) days of the performance of such non-conforming Authorized Services.

(e) Restrictions. The foregoing limited warranties do not apply if the Authorized Product (i) has been altered, except by F5 or an F5-designated representative or in accordance with F5 instructions, (ii) has not been installed,

operated, repaired, or maintained in accordance with F5's instructions, (iii) has been subjected to abnormal physical or electrical stress, misuse, negligence or accident, or (iv) has been operated outside of the environmental specifications for the Authorized Product. F5's provision of any software corrections or upgrades does not extend the original warranty period.

8.2 **DISCLAIMER; LIMITATION OF LIABILITY.** EXCEPT FOR THE WARRANTIES SPECIFICALLY DESCRIBED HEREIN, F5 DOES NOT MAKE ANY GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO PRODUCTS, SPECIFICATIONS, SUPPORT, SERVICE OR ANYTHING ELSE. F5 HAS NOT AUTHORIZED ANYONE TO MAKE ANY REPRESENTATION OR WARRANTY OTHER THAN AS PROVIDED ABOVE. F5 DISCLAIMS AND EXCLUDES TO THE FULLEST EXTENT PERMITTED BY LAW ANY AND ALL WARRANTIES, CONDITIONS AND GUARANTEES, EXPRESS, IMPLIED OR OTHERWISE, ARISING, WITH RESPECT TO THE PRODUCTS OR SERVICES DELIVERED HEREUNDER, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. F5'S LIABILITY FOR LOSS UNDER THIS AGREEMENT IS LIMITED TO THE TOTAL AMOUNT PAID TO F5 OR AN F5 AUTHORIZED DISTRIBUTOR BY RESELLER DURING THE PREVIOUS CALENDAR YEAR. F5 WILL HAVE NO 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 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 BY F5 UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS CONTAINED IN THIS SECTION WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED UNDER ANY TERM OF THIS AGREEMENT. The foregoing limitations do not apply to or limit any liability which F5 is not, and to the extent that it is not, lawfully permitted to limit or exclude.

8.3 **RMA Procedure for Hardware Products.** Authorized 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, insured and packaged appropriately for safe shipment. The decision to issue an RMA shall be at F5's sole discretion, subject to the warranty terms hereof. F5 will only accept packages with RMA numbers written on the outside of the shipping carton and/or the packing slips and shipping paperwork. All other packages will be rejected. F5 will ship the repaired or replaced item to the Authorized Reseller or End User, at F5's expense, no later than seven (7) days after receipt by F5 unless a longer period is required due to import or export regulations. If Reseller is authorized to do so and has undertaken Level 1 and Level 2 support obligations in its arrangement with F5 and has obtained Advance Exchange RMA approval (as detailed in the applicable support contract), F5 will ship a replacement Product or component to Reseller on the first business day following confirmation of the failure of the original Product or component per the terms of the applicable support contract unless a longer period is required due to import or export regulations. F5 may invoice Reseller for any replacement Products or components (a) with respect to which the damage to the returned Products or components is attributable to actions taken by the End User, Authorized Reseller or Reseller or any of their agents; or (b) where the failed Product or component is not returned within ten (10) days of receipt of the replacement unit(s). Title to any returned Products or components will transfer to F5 upon receipt. For Software, F5 will replace defective media or documentation or, at its option, undertake reasonable efforts to modify the software to correct any material non-conformance with the specifications.

9. **F5 Services.**

9.1 **Maintenance Services.** Subject to payment of the applicable maintenance and support fees, F5 provides technical support and maintenance Services in accordance with the support policies available at <http://www.f5.com/about/guidelines-policies/#supportPolicies> (or a successor site). Reseller may sell such Authorized Services in accordance with the F5 Channel Partner Policies and Procedures.

9.2 **Professional Consulting Services.** Reseller may also sell F5 consulting, training, installation and other Authorized Services in accordance with the F5 Channel Partner Policies and Procedures. F5 provides such Authorized Services in accordance with the terms set forth at <http://www.f5.com/pdf/customer-support/consulting-services-agreement.pdf> (or a successor site).

10. **Indemnification.**

10.1 **Indemnification by Reseller.** Reseller 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 Reseller relating to its activities in connection with this Agreement, Reseller's breach of this Agreement, or Reseller's misrepresentations relating to F5, the Authorized Products, the Authorized Services or this Agreement, regardless of the form of action. Reseller will be solely responsible for any claims, warranties or representations made by Reseller or Reseller's representatives or agents which differ from the warranties provided by F5 in this Agreement.

10.2 **Infringement.** F5 will, at its expense, defend any suit brought against Reseller by an unaffiliated third party

based upon a claim that a Product infringes a valid patent, trademark or copyright enforceable in an Authorized Territory or misappropriates a third party trade secret enforceable in an Authorized Territory. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act, except in case of claims 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 lawyers' fees) finally awarded against Reseller or agreed in settlement by F5 directly attributable to any such claim and will bear all reasonable costs of the investigation and defense of the claim, but only on condition that (a) Reseller notifies F5 in writing of such claim promptly following receipt of notice, (b) F5 has sole control of the defense and settlement negotiations, (c) Reseller provides F5 all non-privileged information and communications received by Reseller concerning such claim, and (d) Reseller provides reasonable assistance to F5 when requested. Reseller 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. F5 will have the right, at its option and expense, to (a) obtain for Reseller (or the End User as the case may be) rights to use or distribute the Product, (b) replace or modify the Product so that it becomes non-infringing, or (c) accept return of the Product in exchange for a credit not to exceed the purchase price paid by Reseller for such Product based upon a three year straight line depreciation. The foregoing, subject to the following restrictions, states the exclusive liability of F5 to Reseller concerning claims of infringement or misappropriation.

10.3 Restrictions. F5 will have no liability for or duty to defend any claim of infringement or misappropriation based on (a) use of a superseded release of the Product where the subsequent release is equally available at no additional cost and is non-infringing; (b) use of the Product in combination with equipment or software not supplied by F5 where the Product would not itself be infringing; (c) use of the Product in an application or environment not described in the Documentation; (d) software or technology not developed by F5; (e) Authorized Products that have been altered or modified in any way by anyone other than F5 or its authorized agents; or (f) sale or use of the Authorized Product (i) outside the Authorized Territories in violation of Section 4.4; (ii) in any country into which the U.S. has embargoed or restricted the export of goods or services; (iii) to or by any person or entity who Reseller knows or has reason to know will utilize the Software or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iv) to or by 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.

11. Confidentiality.

11.1 Definition. "**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, Reseller 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.

11.2 Confidentiality Obligations. 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.

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

13. General Provisions.

13.1 Audit Rights. F5, in its sole and absolute discretion, may conduct, or have a third party conduct on its behalf, an audit of the records of Reseller for the purpose of validating the Reseller's compliance with the terms of this Agreement.

13.2 Anti-Bribery and Anti-Corruption Compliance. Reseller 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. Reseller will provide true, accurate, and complete information in all product orders, reimbursement requests, and other communications relating to F5 and its Products and Services.

13.3 Export Compliance. Reseller agrees to comply with the U.S. Export Administration Act, the Export Control Act, all regulations promulgated under such Acts, and all other U.S. 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, Reseller 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 Reseller 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. Reseller 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.

13.4 The Waste Electrical and Electronic Equipment Directive. With respect to sales in European Union member states, Reseller will be responsible for reporting electrical and electronic equipment ("EEE") placed on the market, the costs of financing the collection, treatment, recovery, and environmentally sound disposal of the Products at the end of life of such Product supplied by F5 pursuant to this Agreement, to the extent required by the WEEE Directive (as defined below) as implemented by European Union member states. Reseller further agrees that with respect to the sale of Products in European Union member states, it will undertake any and all additional responsibilities allocated to a "Producer" (as such term is defined in Directive 2012/19/EU, as amended, the "WEEE Directive") in the WEEE Directive as implemented by European Union member states, including, but not limited to, any related obligations of registrations and reporting.

13.5 Investigations. From time to time, F5 or its affiliates may conduct investigations related to, among other things, alleged fraud, piracy, or gray market sales. Reseller will reasonably cooperate with F5 in such investigations.

13.6 Notices. Any notice or demand under this Agreement must be in writing in English and will be deemed given three (3) business days after it is sent by registered or certified mail, return receipt requested and postage prepaid, one (1) business day after it is sent via reputable nationwide overnight courier service, or upon personal delivery. All notices to Reseller shall be sent to the address provided to F5 as part of the Partner Application to the attention of Reseller's legal department. All notices to F5 shall be sent to the address(es) of the appropriate F5 Entity in the table below. Either party may change its address by giving the other party written notice in accordance with this Section 13.6. Notice may also be sent by fax, with confirmation of receipt, or electronic mail provided that it is also provided in accordance with one other method described above within three (3) business days.

F5 Entity:	Notice Address:	With a Copy to:
F5 Networks Singapore Pte Ltd	F5 Networks Singapore Pte Ltd	Attention: Legal Department

	Attn: Legal Department 5 Temasek Boulevard #08-01/02/05 Suntec Tower 5 Singapore 038985 Singapore	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	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	

13.7 Force Majeure. If either party is unable to perform any of its obligations under this Agreement due to any cause beyond its reasonable control and not caused by its negligence, such party's performance will be excused and the time for performance extended for the period of delay or inability to perform due to such occurrence, provided that the non-performing party promptly notifies the other party of the delay and the cause thereof and promptly resumes performance as soon as it is possible to do so.

13.8 Waiver. The waiver by either party of a breach or default of any provision of this Agreement by the other party will not be construed as a waiver of any succeeding breach of the same or any other provision, nor will any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party. No waiver will be effective unless in writing and signed by an authorized representative of the party to be bound. Failure to pursue, or delay in pursuing, any remedy for a breach will not constitute a waiver of such breach.

13.9 No Agency; Independent Contractors. F5 and Reseller are independent contractors, and neither will be considered the agent of the other for any purpose. Nothing contained in this Agreement will be construed to establish a relationship that would allow either party to make representations or warranties on behalf of the other except as expressly set forth herein. Nothing contained herein will in any way constitute any association, partnership, or joint venture between the parties hereto, or be construed to evidence the intention of the parties to establish any such relationship. Neither of the parties will hold itself out in any manner that would be contrary to the provisions of this Section 13.9.

13.10 Governing Law. This Agreement, and all matters arising out of or relating to this Agreement, will be governed by and construed in accordance with the laws of the jurisdiction set forth in the governing law column opposite the applicable F5 Entity in the table below, without regard to that jurisdiction's choice of law rules. Further, for any action arising out of or related to this Agreement, Reseller consents to the exclusive jurisdiction and venue of the courts located in the venue column opposite the applicable F5 Entity in the table below.

F5 Entity:	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 the United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to this Agreement.

13.11 Dispute Resolution. In the event of any dispute arising out of or relating to this Agreement, the parties will 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 Section 13.10. 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 determined in accordance with Section 13.10. The foregoing alternative dispute resolution provisions will not apply to claims or actions related to the infringement, misappropriation or violation of F5's intellectual property rights or those of its third party licensors and such actions may be brought in any court of competent jurisdiction. 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 in meaning to the original as possible.

13.12 Entire Agreement; Amendment. 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 Reseller 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 Reseller. 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.

13.13 Construction. This Agreement has been negotiated by the parties and their respective counsel. This Agreement will be interpreted in accordance with its terms and without any strict construction against either party. Ambiguity will not be interpreted against the drafting party.

13.14 Severability. If any provision of this Agreement is found to be unenforceable, the remainder of the Agreement will be enforced as fully as possible and the unenforceable provisions will be deemed modified to the limited extent required to permit its enforcement in the manner most closely representing the intention of the parties as expressed herein.

13.15 Costs, Expenses and Lawyers' Fees. If either party commences any action or proceeding against the other party to enforce or interpret this Agreement, the prevailing party in such action or proceeding will be entitled to recover from the other party the actual costs, expenses and reasonable lawyers' fees (including all related costs and expenses), incurred by such prevailing party in connection with such action or proceeding and in connection with obtaining and enforcing any judgment or order thereby obtained.

13.16 Assignment. Reseller acknowledges that F5 is relying upon Reseller's reputation, business standing, and goodwill under Reseller's present ownership in entering into this Agreement. Accordingly, Reseller agrees that its rights and obligations under this Agreement may not be transferred or assigned and its duties may not be delegated, directly or indirectly, without the prior written consent of F5 in its sole and absolute discretion. Reseller will notify F5 promptly in writing of any change of ownership of Reseller (other than the sale or trades of less than a controlling interest of Reseller's stock or equity) or of any sale of all or substantially all of Reseller's assets. Reseller acknowledges that any change of ownership, sale of all or substantially all of Reseller's assets, or attempted assignment by Reseller of this Agreement, or any part thereof, without F5's prior written consent may result in immediate termination of this Agreement. F5 may assign or otherwise transfer its rights and obligations to successors-in-interest (whether by purchase of stock or assets, merger, operation of law, or otherwise) of that portion of its business related to the subject matter hereof. Subject to the restrictions set forth in this Section 13.16, all of the terms and conditions of this Agreement will be binding upon, inure to the benefit of, and be enforceable by the respective successors and permitted assigns of the parties hereto.

13.17 Publicity. Reseller 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.

13.18 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 and neither party can declare itself a trustee of the rights under it for the benefit of any third party.

13.19 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.