

BY CLICKING THE “I ACCEPT” BUTTON, YOU AGREE TO BE BOUND BY THE TERMS OF THIS MINDJET CHANNEL PARTNER PROGRAM AGREEMENT (THIS “**AGREEMENT**”) AND THE MINDJET CHANNEL PARTNER PROGRAM (THE “**PROGRAM**”) WEBSITE, INCLUDING, BUT NOT LIMITED TO, THE TRADEMARK POLICY, THE CORPORATE BRANDING GUIDELINES, THE PRIVACY POLICY, AND ANY OTHER TERMS INCORPORATED BY REFERENCE WHICH FORM A PART OF THIS AGREEMENT. “YOU” AND “YOUR” REFER TO THE ENTITY THAT HAS ENTERED INTO THIS AGREEMENT TO JOIN THE PROGRAM AND YOUR WHOLLY AND MAJORITY OWNED SUBSIDIARIES (“**AFFILIATES**”) THAT ARE ACCEPTED INTO THE PROGRAM AS SET FORTH BELOW. YOU WARRANT THAT YOU HAVE THE AUTHORITY TO BIND YOU AND YOUR AFFILIATES TO THIS AGREEMENT AND FURTHER WARRANT THAT YOU SHALL BE RESPONSIBLE FOR A BREACH OF SUCH TERMS BY YOUR AFFILIATES.

1. Enrollment. Following processing and acceptance of your application to the Program, if accepted, you will be notified which of the following partner levels you have successfully enrolled in: Bronze, Silver, Gold, or Platinum. Qualification thresholds for each partner level are determined by the amount of Net Sales received by Mindjet from you in the prior calendar year. The requirements and benefits for each partner level are described more fully on the Program website (the “**PartnerZone**”). Your participation in the Program is voluntary. As used herein: (i) “Net Sales” means amounts received by Mindjet through your authorized distributor, or directly from Mindjet on a case-by-case basis, for the sale of Products in your Territory, as applicable, less channel and distribution fees, freight, packaging, handling or other shipment expenses, if any, sales, use, value-added, excise, and other taxes, COD charges, insurance, customs duties and other governmental charges, cash or trade discounts, returns or credits, bad debt, and other similar costs and expenses, and any applicable referral fees; (ii) “Products” means Mindjet’s visualization and productivity software products, maintenance and support for such software products, and subscriptions to visualization and productive software-as-a-service that are generally available for indirect sale by Mindjet’s resellers, which may change from time-to-time at Mindjet’s sole discretion; and (iii) “Territory” shall mean North and South America.
2. Membership Benefits. Mindjet will administer the Program and its benefits through the PartnerZone and Program communications. Mindjet may communicate with you to: (i) administer the Program; (ii) give you information about the Program, including events and training opportunities; (iii) invite you to participate in events; and (iv) give you materials to help you resell Mindjet’s Products. You will receive the benefits described in the PartnerZone. Benefits may vary by partner level and Territory. Some benefits may require acceptance of additional terms, conditions, and licenses. You must: (i) accept such additional terms before using any Program benefit; and (ii) use the Program benefits according to those additional terms and this Agreement. You may not use the Program benefit(s) if you do not agree to those additional terms, if applicable. You will be given access to the restricted areas of the PartnerZone as part of your membership in the Program. You are responsible for compliance with the terms of this Agreement or by anyone accessing the PartnerZone with logins and passwords attributed to you. You will be given access to the partner level benefits set forth on the Program website that are applicable to the partner level in which you have enrolled, provided that the applicable partner level criteria and requirements set forth in the PartnerZone are continuously met for your enrolled partner level. Mindjet reserves the right to modify this Agreement and the requirements and benefits for each partner level at any time or terminate the Program in its entirety, effective immediately, upon notice to you. Notice shall be provided via email communication at the email address provided to Mindjet by you and prominently displayed in the PartnerZone.

3. NFR Licenses. Provided that the applicable partner level criteria and requirements set forth in the PartnerZone are continuously met for your enrolled partner level, for sixty (60) calendar days from the date of delivery, Mindjet grants each of your registered users in the PartnerZone a non-exclusive, limited Not-For-Resale (“**NFR**”) license to certain Products, as set forth and determined in Mindjet’s sole discretion, for your internal business purposes only to: (a) demonstrate the programs to potential end users in connection with the resale of Mindjet’s Products; and (b) to provide training to your employees. For the avoidance of doubt, NFR licenses shall not be used for non-Mindjet related sales business. The number of NFR licenses granted to you, depends on your applicable partner level and at the sole discretion of Mindjet. Your use of such NFR licenses shall be subject to the terms of this Agreement and the acceptance of the End User License Agreement which accompanies the Product. Notwithstanding any terms set forth in the End User License Agreement, NFR licenses may not be assigned or sold.
4. Trademarks.
  - a. *Grant of Rights*. Subject to the terms and conditions of this Agreement, Mindjet hereby grants to you, during the term of this Agreement, a limited, non-exclusive, non-transferable, royalty-free license to use Mindjet’s trademarks, trade names, and logos that Mindjet made available to you (the “Marks”) for you to use solely for marketing the Products, provided that the applicable partner level criteria and requirements set forth in the PartnerZone are continuously met for your enrolled partner level. Mindjet may from time to time modify any of the Marks and you shall stop using any prior version following any such modification. Mindjet may also attach other or additional Marks to the Products.
  - b. *Mark Ownership*. You acknowledge Mindjet’s exclusive ownership of the Marks and the goodwill of Mindjet’s Marks worldwide and that you do not acquire any right, title, or interest in the Marks because of your use of the Marks. You agree not to take any action inconsistent with such ownership and further agree to take, at Mindjet’s expense, any action, including, the conduct of legal proceedings, which Mindjet deems necessary to establish and preserve Mindjet’s exclusive rights in and to its Marks worldwide. You will not adopt, use, or attempt to register any trademarks or trade names that are confusingly similar to the Marks, including a translation or transliteration of the Marks, in the field of computer hardware, software, or web services in such a way as to create combination marks with the Marks.
  - c. *Reproduction of Marks*. Any reproduction of the Marks will be true reproductions. You shall use the graphic resources made available on Mindjet’s website and in the PartnerZone, which may be modified from time to time. You will provide Mindjet, upon request, with samples of all materials that use the Marks prior to their public use or display for Mindjet’s quality control purposes. Mindjet may terminate, in whole or in part, your license to use the Marks if, in Mindjet’s sole discretion, your use of the Marks does not meet Mindjet’s then-current Trademark Policy or Corporate Identity and Branding Guidelines.
  - d. *Restrictions*. Your use of the Marks shall strictly comply with Mindjet’s then-current Trademark Policy and Corporate Identity and Branding Guidelines, available on Mindjet’s website and in the PartnerZone, which may be modified from time to time. You agree to state in appropriate places on all materials using the Marks that the Marks are trademarks of Mindjet and to include the appropriate trademark symbols. Mindjet grants no other rights than expressly granted hereunder. Your use of the Marks must not cause confusion about the source of the Products or your relationship with Mindjet.

Further, you will not register any internet domains referencing a Mark, without Mindjet's prior written consent. In the event you own such a domain name, at Mindjet's request, you agree to assign and/or transfer such domain to Mindjet. Mindjet will reimburse you for any expenses related to such assignment and/or transfer. You will not alter, obscure or remove any Mark or any copyright notices or any other proprietary rights notices placed on or in the Products, marketing materials, or other materials that Mindjet may provide, nor attach any other marks or notices to those items.

- e. *Mark Indemnification.* Mindjet shall not have any liability to you for any claims made by third parties arising out of your use of the Marks. You agree to indemnify Mindjet as set forth in Section 14 (Indemnification) below arising out of any claims which may be made against Mindjet arising out of your use of the Marks where such claim relates to your activities, products, or services. Notwithstanding the above, you shall have no obligation to indemnify Mindjet with respect to a claim of trademark or copyright infringement based upon your use of the Marks as expressly permitted under this Agreement.
  - f. *Publicity.* Mindjet may use your corporate logo on its channel partner directory in various forms (e.g., a printed list, an online list, etc.) and in other marketing materials, for the sole purpose of identifying you as a channel partner of Mindjet. In any use of your logo, Mindjet will comply with any logo usage guidelines provided and will promptly fix any defect that you bring to Mindjet's attention. Mindjet may use your name, logo, website link, quote, and any other information that provided to Mindjet to develop case studies, press releases, and other marketing pieces in any form (e.g., print, audio, video, and other formats) that pertain to your customer's use of Mindjet's Products and as your function as a Mindjet channel partner. Mindjet may publish and freely distribute all such information, quote(s) or input. Mindjet will never broadly publish any end user or employee contact information (i.e., it will not appear on Mindjet's customer list, channel partner directory, or in a case study) without you or your end user's prior written consent. Mindjet is not obligated to publish or otherwise use any information or logo that you provide. The rights that granted herein to Mindjet are without any fee or royalty.
5. Ownership. Mindjet retains all right, title, and interest in and to its Products, including, but not limited to, its underlying technology, Product documentation, marketing and sales collateral developed by Mindjet, in any additional Mindjet resources provided to you as part of your membership to the Program, including, but not limited to, information and content available to you in the PartnerZone, and in all related copyrights, trade secrets, patents, Marks, and any other intellectual and industrial property and proprietary rights, including registrations, applications, renewals, and extensions of such rights (collectively, "**Mindjet Intellectual Property**"). You shall not remove any titles, trademarks or trade names, copyright notices, legends, or other proprietary markings on any Mindjet Intellectual Property. You are not granted any rights to any Mindjet Intellectual Property. Mindjet retains all rights not expressly granted to Customer in this Agreement.
6. Confidential Information.
- a. *Confidential Information.* "Confidential Information" means information of a confidential nature disclosed by a Disclosing Party (as defined below) to a Receiving Party (as defined below) hereunder, irrespective of the medium or form in which such information is disclosed. Confidential Information may include, but is not limited to: (i) inventions, knowledge, trade secrets, ideas, data, programs, works of authorship, know-how, improvements, discoveries, designs, techniques and processes; (ii) technical

information relating to a party's existing, proposed and future products and services; (iii) strategic, marketing, product and other business plans, research or other information; (iv) financial and operational information, data and projections; (v) business policies or practices; (vi) information regarding a party's employees or its customers, suppliers, licensors, representatives, agents, partners, consultants and other business relationships; and (vii) confidential information of third parties. Confidential Information shall be information that: (a) is designated as being confidential to the Receiving Party by the Disclosing Party; (b) under the circumstances surrounding disclosure should be treated as confidential by the Receiving Party; or (c) by reason of its nature would be treated as confidential by a reasonable Receiving Party, which would include, without limitation, trade secrets.

- b. *Exclusions.* The Confidential Information of the Disclosing Party expressly excludes any information that the Receiving Party can demonstrate: (i) is already known by the Receiving Party, without restriction, at the time of disclosure by the Disclosing Party, as demonstrated by written records in existence at the time of disclosure; (ii) becomes known to the Receiving Party from a third party lawfully in possession thereof without breach of this Agreement or any other third party obligation of confidentiality or restrictions with respect to such information; (iii) is in the public domain at the time of disclosure or subsequently becomes a part of the public domain through no fault of the Receiving Party; (d) was independently ascertained or developed by or for the Receiving Party without use of or reference to any Confidential Information of the Disclosing Party, as demonstrated by its written records; or (iv) was approved for public release by written authorization of the Disclosing Party.
- c. *Other Definitions.* Except as otherwise indicated in this Agreement: (i) the term "Disclosing Party" means a party and/or any of its Affiliates that furnish the Confidential Information to the other party and/or any of its Affiliates; and (ii) the term "Receiving Party" means a party and/or any of its Affiliates that receive any Confidential Information from the other party and/or any of its Affiliates.
- d. *Care of Confidential Information.* The Receiving Party shall: (i) restrict access to the Confidential Information of the Disclosing Party to only its employees, directors, Affiliates, advisors and contractors ("Receiving Party Representatives") who require such Confidential Information in order to fulfill a party's obligation hereunder or to advise the Receiving Party with respect to its rights or obligations under law or this Agreement and who have agreed, in writing, with the Receiving Party or have a legal obligation to maintain the confidentiality of such Confidential Information, where such agreement or obligation is as protective of the Confidential Information as the provisions of this Agreement, and provided that the Receiving Party will be responsible for any use, distribution, or communication of the Confidential Information by any such Receiving Party Representatives in a manner not authorized under this Agreement; (ii) protect the Confidential Information of the Disclosing Party against unauthorized use or disclosure with at least the same degree of care as the Receiving Party normally exercises to protect its own information of like character and importance, but in no case less than reasonable care; (iii) not duplicate or reproduce the Confidential Information except as required for the purposes set forth in subsection (i) of this section, unless authorized to do so (all such duplications or reproductions shall be considered Confidential Information); and (iv) not modify, reverse engineer, decompile, create other works from or disassemble any software programs or current, proposed or future product or portion thereof contained in the Confidential Information disclosed by the Disclosing

Party to the Receiving Party, except as permitted in writing by the Disclosing Party or to the extent the foregoing prohibition is void under applicable law. The Receiving Party shall immediately notify the Disclosing Party if it becomes aware that the Confidential Information is used, distributed, or communicated by a Receiving Party Representative in a manner not authorized under this Agreement.

- e. *Disclosure of Confidential Information Required by Law.* In the event that the Receiving Party is required by law, regulation, or court order to disclose any of the Confidential Information of the Disclosing Party, the Receiving Party will promptly notify the Parties in writing prior to making any such disclosure in order to allow the Disclosing Party to seek a protective order, confidential treatment, or other appropriate remedy from the proper authority. The Receiving Party shall cooperate with the Disclosing Party in seeking such remedies at the Disclosing Party's expense. If the Disclosing Party is not successful in precluding the requesting legal body from requiring the disclosure of the Disclosing Party's Confidential Information, the Receiving Party will furnish only that portion of such Confidential Information which is legally required.
7. Warranty Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MANDATORY LAW, MINDJET ADMINISTERS THE PROGRAM, PROVIDES TO YOU MINDJET CONFIDENTIAL INFORMATION, MINDJET INTELLECTUAL PROPERTY, OR ANY STATEMENTS MADE BY MINDJET OR ITS EMPLOYEES AS PART OF YOUR MEMBERSHIP TO THE PROGRAM AS IS, WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS AGREEMENT, OR COMMUNICATION WITH CUSTOMER INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, AND NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE PARTNERZONE IS OBTAINED AT YOUR OWN DISCRETION AND RISK AND MINDJET SHALL HAVE NO RESPONSIBILITY FOR ANY LOSS OR DAMAGE THAT MAY RESULT FROM THE DOWNLOAD OF ANY SUCH CONTENT OR YOUR USE OF THE CONTENT AVAILABLE IN THE PARTNERZONE.
  8. Term and Termination.
    - a. *Term.* The term of this agreement shall be twelve (12) months commencing on the date Mindjet accepts your application to the Program, unless earlier terminated in accordance with this Agreement. Thereafter, this Agreement shall be automatically renewed by for successive one (1) year periods unless either party receives from the other party thirty (30) days prior to the renewal date written notification to terminate this Agreement.
    - b. *Termination.* A party may terminate this Agreement for material breach effective immediately if a material breach remains uncured for a period of thirty (30) days after notice from the non-breaching party to the breaching party. A party may terminate this Agreement for convenience upon thirty (30) days prior written notice to the other party. A party may terminate this Agreement effective immediately upon written notice to the other party, without the necessity of prior notice, in the event, (i) of such other party's voluntary or involuntary liquidation or insolvency, (ii) that such other party makes an assignment for the benefit of creditors, (iii) that a petition is filed by or against such other party under a bankruptcy law, any other law for relief of debtors, or other law similar in purpose or effect, the effect of which is to cause or request that such other party have its business effectively discontinued, and such petition has not been opposed by such other party or said opposition has been rejected.

- c. *Effect of Termination.* Upon any termination of this Agreement for breach by Mindjet, all licenses to any Product granted by Mindjet under this Agreement will immediately terminate. In the event of any termination or expiration of this Agreement, the parties agree to: (i) refrain thereafter from representing itself as a registered Mindjet channel partner; (ii) return to the Disclosing Party or destroy, and certify such destruction in writing if so requested by the Disclosing Party, all Confidential Information in the Receiving Party's possession or subject to its control; and (iii) if applicable, you must take whatever measures necessary to destroy the Products and dispose of the media in an appropriate manner by uninstalling all copies of the Products, including all backup copies from any and all servers, computers, and terminals on which it is installed, its documentation, and any license key provided to you.
  - d. *Survival.* The provisions of Sections 4(b) (Mark Ownership), 4(e) (Mark Indemnification), 5 (Ownership), 6(Confidential Information), 7 (Warranty Disclaimer), 8(c) (Effect of Termination), 8(d) (Survival), 12 (Audit), 13 (Privacy and Data Protection), 14 (Indemnification), 15 (Limitation of Liability), 17 (Feedback), and 18 (Miscellaneous) shall survive the termination or expiration of this Agreement. In addition, any right or obligation of a party in this Agreement or in any terms incorporated by reference that by its express term extends for a period beyond the term of the Agreement shall also survive the termination of the Agreement for such extended period.
9. Opt-in to Marketing. As a member of this Program at any level, you will need to know about membership and participation in this Program, new related products and services, conferences, events, and training. Notwithstanding any selection to opt out of receiving electronic marketing from Mindjet that you may make, your participation in this Program will serve as an opt-in to receive Mindjet marketing that may be deemed to relevant to Mindjet partners. You are responsible for providing any notices and obtaining any consents, if required, from any persons who are signed up to this Program on your behalf.
10. License Compliance. You are required to inform Mindjet immediately if:
- a. You know or suspect that an end user installed more Product licenses than such end user purchased; and
  - b. You know or suspect that an end user is violating a Product license agreement.
11. General Cooperative Marketing Allowance.
- a. This section describes what shall be referred to between the parties as the "**Co-Op**", a general cooperative marketing allowance available to Platinum and Gold Level partners. During the term of this Agreement, you shall be eligible to have certain marketing costs directly arising from advertising, promotional, or sales activities of Mindjet's Products within your Territory, including, but not limited to, branding and awareness of Mindjet's Products ("Marketing Costs") reimbursed by Mindjet. You may earn Co-Op amounts to be used towards the reimbursement of Marketing Costs up to the percentage of Net Sales set forth in the PartnerZone earned in your Territory. Each Mindjet fiscal quarter, you may earn Co-Op amounts up to, but no greater than, the threshold amount set forth in the PartnerZone.
  - b. You must invoice Mindjet for reimbursement of Marketing Costs within six (6) calendar months from the commencement date of the Mindjet fiscal quarter immediately following the Mindjet fiscal quarter in which such Co-Op amounts were earned. After six (6) calendar months, earned, but unused, Co-Op amounts will expire, but shall not affect other Co-Op amounts earned in subsequent quarters. You may request a report which sets forth your current Co-Op balance and paid reimbursements for the current Mindjet fiscal year. Within thirty (30) calendar days following the end of each Mindjet

fiscal quarter, Mindjet will notify you (which may be in the form of an email) the Co-Op amounts earned for the foregoing Mindjet fiscal quarter.

- c. You shall pay for the total amounts of any approved Marketing Costs and may invoice Mindjet for such total amounts and Mindjet will reimburse you from earned Co-Op amounts up to the then current balance of the Co-Op provided that you, in a timely manner, provide Mindjet documentation for such Marketing Costs. All advertising, promotion, and sales activities must be approved prior to commencement and reimbursement by a representative of Mindjet. Mindjet shall pay such invoices within sixty (60) calendar days from receipt of a valid invoice if adequate coop funds are accrued and available. In no circumstances will Mindjet reimburse funds greater than the COOP funds accrued and available. Co-Op amounts shall be used solely for reimbursement of Marketing Costs and shall not constitute a rebate or compensation to you. Mindjet may elect, at any time, in its sole discretion, to modify or terminate this Co-Op with immediate effect upon fourteen (14) calendar days' notice to you (which may be in the form of an email). Notwithstanding termination of this Co-Op, any Marketing Costs you undertake which was approved by Mindjet prior to termination shall be reimbursed by Mindjet.
12. Audit. You will keep all usual and proper records in the ordinary course of business relating to your performance of this Agreement. You will keep these documents during the term of this Agreement and for two years after this Agreement ends. Upon five (5) business day's prior written notice, Mindjet may audit your use of any Co-Op amounts (if applicable), NFR licenses, Mindjet's Marks, and your records as they pertain to the sale of Mindjet's products and your obligations under this Agreement. Any such audit shall be conducted during your normal business hours in a manner that will not unreasonable interfere with your normal business operations. You agree to cooperate with Mindjet's audit and provide reasonable assistance and access to information including, but not limited to, relevant books, records, agreements, and order reporting systems. You agree that Mindjet shall not be responsible for any of your costs incurred in cooperating with the audit. If an audit reveals your noncompliance with the terms of this Agreement, Mindjet may terminate, with notice, some or all of this Agreement, effective immediately, or choose not to accept your application to renew this Agreement at such time of renewal.
13. Privacy and Data Protection.
- a. *Your Information*. If you provide Mindjet with personal information concerning end users, prospects, or employees, Mindjet will only use the information in a manner consistent with those set forth in this Agreement to accomplish its obligations herein, or as otherwise indicated at the time Mindjet collects such information. You acknowledge and agree that your participation in this Program may require Mindjet to process or store your personal information and to transmit such information internally within Mindjet or to Mindjet's Affiliates. Such processing, storage, and transaction shall only be to the extent necessary for, and for the sole purpose of, enabling Mindjet to perform its obligations hereunder and may take place in any of the countries in which Mindjet and its Affiliates conducts business, which may include countries within and outside of the European Union. Mindjet affirms to you that Mindjet currently abides by the safe harbor framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Union. You agree to provide all relevant notices and obtain any consents required to share such personal information with Mindjet.

- b. *Mindjet Information.* If Mindjet provides you with personal information concerning Mindjet's partners, customers, prospects, or employees, you agree that you will permit access to and use of such information solely in connection with the sale of Mindjet's Products and for the limited purpose(s) for which it was provided by Mindjet under this Agreement. You also agree to comply with all laws that apply to your use of this information for such purposes. You will take reasonable security measures to protect such information from unauthorized use, access, disclosure, alteration, or destruction. Security measures will include access controls, encryption, and any other security means that are legally required. All other information disclosed under this Program will be protected by Mindjet's Privacy Policy.
  - c. PartnerZone. It is your responsibility to check the PartnerZone regularly for changes. Changes are effective on the date they are posted to the PartnerZone. Changes do not apply retroactively. You confirm that prior to entering into this Agreement, you have read the policies identified in this Agreement and agree to the terms and conditions set out in those policies. You undertake that you will visit the websites referenced herein on a regular basis so that you are aware of any amendments Mindjet may make to these policies from time to time.
14. Indemnification. You will defend, indemnify, and hold Mindjet and its officers, directors, employees, contractors, Affiliates, and agents harmless from any and all claims, suits, demands, costs, liabilities, expenses, and damages (including reasonable attorneys' costs and fees) related to you or your agents acts or omissions under this Agreement.
15. Limitation of Liability. Notwithstanding any other provision of this Agreement, except for breaches of Sections 3 (NFR Licenses), 4 (Trademarks), 5 (Ownership), 6 (Confidential Information), 10 (License Compliance), and any bodily injury or damage to tangible property, to the extent such damages cannot be lawfully be limited:
- (a) NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOST PROFITS OR LOST DATA, UNDER ANY AND ALL CAUSES OF ACTIONS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO THE USE OF OR INABILITY TO USE THE PRODUCTS), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND
  - (b) IN NO EVENT WILL MINDJET'S TOTAL AGGREGATE LIABILITY TO YOU ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE GREATER OF ONE THOUSAND UNITED STATES DOLLARS (\$1,000.00) OR ANY CO-OP AMOUNTS EARNED BY YOU DURING THE TERM OF THIS AGREEMENT.
- The warranty disclaimers and the limitations on and exclusions of remedies set forth in this Agreement will apply regardless of the form of action and even if a limited remedy provided hereunder fails of its essential purpose. These disclaimers and limitations reflect the parties' reasonable allocation of the risks associated with any performance or non-performance hereunder, are reflected in the prices charged hereunder, and have been included as a material inducement for each party to enter into this Agreement.
16. Relationship of the Parties. Any use of the term "partner" is for reference purposes only. In all matters relating to this Agreement, you will act as an independent contractor. This Agreement does not create a direct reseller arrangement. You must purchase Mindjet's Products through your authorized distributor. Further, this Agreement does not create a partnership, joint venture, agency, employee/employer, or franchisee/franchisor relationship between the parties. Neither party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as agent, employee, franchisee, or in any other capacity. You acknowledge that in your sale of Mindjet's Products to

end users, you are not acting as Mindjet's agent and you agree to state the same in any agreement you enter into with such end users.

17. Feedback. You agree that any feedback, suggestions, comments, or ideas it or any of your employees or contractors provide to Mindjet regarding the Products or any suggested improvements thereto (together, the "Feedback") will be the exclusive property of Mindjet. Feedback is voluntary and, even if designated as confidential, Mindjet may use it for any purpose without obligation of any kind.

18. Miscellaneous

- a. *Entire Agreement*. This Agreement, the trademark policy, the corporate branding guidelines, the privacy policy, the requirements and benefits described in the PartnerZone, and any other terms incorporated by reference constitute the entire understanding between the parties with respect to the subject matter hereof and merges and supersedes all prior and contemporaneous agreements, dealings, and negotiations.
- b. *Headings*. Headings under this Agreement are intended only for convenience and shall not affect the interpretation of this Agreement.
- c. *Notices*. Unless otherwise agreed in writing by the parties, all notices to shall be sent to a party's address provided when registering for the Program.
- d. *Waiver and Modification*. No failure of either party to exercise or enforce any of its rights under this Agreement will act as a waiver of those rights. This Agreement may only be modified, or any rights under it waived, by a written document dated and signed by duly authorized representatives of both parties. Notwithstanding the foregoing, Mindjet may modify the terms of this Agreement from time to time, in its sole discretion. Mindjet will notify you by email and by prominent notice in the PartnerZone. You may elect to cancel your membership in this Program within thirty (30) calendar days of any such notice of change in terms. Your continued participation in this Program and receipt of benefits after notice shall be your deemed acceptance of such modified terms.
- e. *Severability*. If any provision of this Agreement is found illegal or unenforceable, it will be enforced to the maximum extent permissible, and the legality and enforceability of the other provisions of this Agreement will not be affected.
- f. *Force Majeure*. Neither party shall be responsible for its failure to perform due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, earthquake, power failure, theft, war, terrorism, riot, embargoes, internet outages or acts of civil or military authorities.
- g. *Resale, Assignment, Transfer*. You may resell Mindjet's Products in your Territory only. Neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party (which will not be unreasonably withheld), unless such assignment is part of a merger, acquisition, reorganization or sale of all or substantially all of that party's assets. Any attempted assignment or transfer without such written consent, except as provided herein, will be null and void and will constitute a material breach of this Agreement. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties' permitted successors and assignees.
- h. *Governing Law*. The official text of this Agreement will be in the English language, and any interpretation or construction of this Agreement will be based solely on the English-language text. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding the application of its conflicts of law rules. The state courts for the County of San Francisco, California and federal courts for the

Northern District of California, San Francisco branch will have exclusive jurisdiction over disputes arising from or in connection with this Agreement, and the parties hereby agree to consent to the personal jurisdiction of such courts. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, or the United Nations Convention on the Limitation Period in the International Sale of Goods, or the Uniform Computer Information Transactions Act, the application of which are expressly excluded.

- i. *Order of Precedence.* IF there is a direct conflict between this Agreement and the PartnerZone not resolved explicitly on the face of those documents, then the Agreement will control, but only to the extent of that conflict. If a particular subject is addressed in the PartnerZone and not in the Agreement, then the terms of the PartnerZone will control.