



Docker Reseller Agreement - Authorized Partner

Docker website version date: September, 2023

This Docker Reseller Agreement ("**Agreement**") is entered into by and between Docker, Inc., a Delaware corporation with principal place of business at 3790 El Camino Real #1052 Palo Alto, CA 94306 ("**Docker**" or "**we**"), and the applicable reseller ("**Reseller**" or "**you**"). If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or such entity to this Agreement; (ii) you have read and understand this Agreement; and (iii) you agree to this Agreement on behalf of the party that you represent. By placing an Order for Docker's Products to resell to a Customer, you indicate your assent to be bound by this Agreement. If you do not agree to the terms of this Agreement, do not place an Order to resell the Docker Products. Individually, each of Reseller or Docker may be referred to as a "Party" and, together, as the "Parties".

In consideration of the agreements herein, the parties agree as follows:

1. DEFINITIONS

- 1.1 "**Affiliate**" means an entity that owns or controls, is owned or controlled by, or is under common control or ownership with a Party, where "control" is the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.
- 1.2 "**Applicable Data Protection Law**" means any privacy and/or data protection laws, regulations and binding guidance that apply to the processing of Personal Data in connection with the respective Party's performance under this Agreement, or to the privacy of electronic communications, including, to the extent applicable, the General Data Protection Regulation (EU) 2016/679 ("GDPR"), Directive 2002/58/EC, the California Consumer Privacy Act, as may be amended from time to time ("CCPA") and any legislation or regulations implementing, replacing, amending or made pursuant to such laws.
- 1.3 "**Customer**" means the end user party to whom Reseller sells the Products.
- 1.4 "**Docker Authorized Distributor**" means the corresponding distributor authorized by Docker for Reseller's Territory.
- 1.6 "**Docker Mariner Channel Partner Program**" or "**Docker Partner Program**" means the then current Docker reseller partnership program as published at Docker's website.
- 1.7 "**Effective Date**" means the date on which you place an Order to resell the Offerings to a Customer pursuant to this Agreement.
- 1.8 "**Order**" means an Order for the Products submitted by Reseller hereunder via a Docker authorized distributor, on behalf of a Customer, or other standard ordering process as may be designated by Docker.
- 1.9 "**Product(s)**" means Docker's products and services, available at <https://www.docker.com/#> and/or under the SSA, which Docker may update from time to time at its sole discretion as may be made available by Docker for resell. Only Docker for Business may be resold by Reseller.
- 1.10 "**SSA**" means Docker's Subscription Service Agreement set forth at <https://www.docker.com/legal/docker-subscription-service-agreement>.
- 1.11 "**Territory**" means the geographical region of Reseller's legal domicile.

2. LICENSE

Subject to the terms and conditions set forth herein, Docker hereby grants Reseller and Reseller hereby accepts a limited, revocable, non-exclusive, non-transferable, non-sub-licensable license (the "License") to promote and resell the Products in the Territory during the Term in accordance with the terms of this Agreement.

3. RESELLER OBLIGATIONS

3.1. **TERRITORY LIMITATIONS.** Reseller will resell the Products only to Customers in the Territory and only for each Customer's internal use and not for resale by any Customer. Reseller is expressly prohibited from reselling any Products to a third party for resale by such third party. Reseller will not engage in any sales activities or establish any distribution arrangements for the Products outside the Territory. Reseller will not advertise, promote or solicit orders for the Products outside of the Territory, provided that the foregoing shall not prohibit Reseller from advertising the Products in media that is distributed both within and outside of the Territory.

3.2. **ORDERS AND FEES.** To order the Products, Reseller shall place an Order through a Docker Authorized Distributor and each such Order shall be signed by the parties and shall be governed by this Agreement. Each Order for the Products shall: (a)



state the type and quantity of the Products; (b) state the total fees owed to Docker; (c) state the identity and location of the Customer; (d) for software Products, reference the SSA and be conditioned on Customer's acceptance of the SSA as part of the purchase of software Products; and (e) be subject to Docker's acceptance and, upon acceptance, Docker and/or Docker's Distributor shall confirm the Order and the shipping date with Reseller. After acceptance of each purchase order, Docker's Distributor and/or Docker shall invoice Reseller for the applicable fees owed to Docker. Docker reserves the right to modify its price list at any time.

3.3. **DELIVERY.** The Products shall be electronically delivered to the Customer.

3.4. **CANCELLATION AND MODIFICATIONS.** Reseller may not modify, cancel or reschedule any Orders or modify any of the Products under an Order, unless agreed upon in writing by the Docker Authorized Distributor and/or Docker.

3.5. **SSA**

Reseller will promote, solicit and obtain orders for the software Products and the maintenance and support thereof using the SSA set forth at <https://www.docker.com/legal/docker-subscription-service-agreement>. Docker may modify the SSA at any time, in whole or in part. Reseller may not modify or amend the SSA without Docker's prior written approval.

4. PAYMENT.

Payment shall be made by Reseller via the Docker Authorized Distributor. All amounts payable shall be exclusive of any Taxes and due and payable to Docker within thirty (30) days from the date of the Order. The payment to Docker shall include the fees for the Products and an amount equal to any Taxes arising from or relating to this Agreement, including without limitation sales, service, use or value-added taxes, which are paid or are payable by Docker or present Docker with a valid tax exemption certificate. "Taxes" means any form of taxation, levy, duty, charge, contribution or impost of whatever nature and by whatever authority imposed (including without limitation any fine, penalty, surcharge or interest), exclusive of any taxes based on the net income of Docker. In the event of a cross-border transaction, should Reseller be required under any applicable law or regulation, domestic or foreign, to withhold or deduct any portion of the payments due to Docker, then the sum payable to Docker will be increased by the amount necessary to yield to Docker an amount equal to the sum it would have received had no withholdings or deductions been made.

5. VERIFICATIONS AND AUDIT

During the Term and for at least three (3) years thereafter, Reseller will keep and maintain commercially reasonable written records and accounts regarding Reseller's distribution of the Products and business activities related to the Products ("Records"). Docker may, no more than once during each twelve (12) month period, at its own expense, upon reasonable notice, and at such time during the period when Reseller is obliged to maintain such books and records, verify such Records to determine Reseller's compliance with this Agreement. Any on-site visit will occur during regular business hours at Reseller's offices, and will not interfere unreasonably with Reseller's business activities. Any such audit shall be performed at Docker's expense, provided that the cost of such audit shall be paid by Reseller if such audit reveals an underpayment by Reseller of more than five percent (5%) of the amounts payable by Reseller to Docker in any six-month period, in which case Reseller will bear the cost of the audit.

6. INTELLECTUAL PROPERTY AND TRADEMARKS

6.1. Reseller acknowledges and agrees that all trademark, copyright, patent, trade secret and all other intellectual and industrial property rights anywhere in the world, including moral rights, and all applications, provisional applications, registrations, continuations and renewals thereof, and all associated goodwill (present or future) in and to the Products, are and will, as among the parties, be owned by and vested in Docker or its licensors, notwithstanding any use of terms such as "purchase," "sale" or the like within this Agreement.

6.2. As used in this Agreement, the term "Docker Marks" means the trademarks owned by Docker or a Docker Affiliate. Docker grants Reseller a non-exclusive, non-transferable, royalty-free, revocable license in the Territory and during the Term to use the Docker Marks solely in connection with the marketing and distribution of the Products as permitted in this Agreement, without the right to sublicense. Any other use of the Docker Marks is not permitted under this Agreement.

6.3. Reseller agrees to use the Docker Marks only as stated in this Agreement, and in doing so, to follow the standards of quality established by Docker and to adhere to the trademark usage guidelines made available by Docker from time to time (the "Docker Trademark Guidelines"). Reseller agrees not to use the Docker Marks in combination with any other trade name, trademark or service mark without the prior written approval of Docker. Upon Docker's request, Reseller will provide Docker with



representative samples of the use of Docker Marks contained within any materials including web pages, marketing, advertising, promotional and collateral materials ("Promotional Materials").

6.4. If Docker determines that Reseller is using the Docker Marks improperly, and/or in connection with goods or services not covered under this Agreement or outside of the Territory, Docker will notify Reseller, and Reseller will remedy the improper use within two (2) business days following receipt of such notice from Docker. Use of the Docker Marks other than as expressly permitted in this Agreement is a material breach of this Agreement, and Docker shall have the right to immediately terminate this Agreement. Reseller agrees that any use of the Docker Marks after termination of this Agreement for any reason will cause Docker irreparable harm.

6.5. All goodwill created by the use of the Docker Marks by Reseller is for the sole benefit of and accrues to Docker. Reseller acquires no right, title or interest in the Docker Marks or the goodwill associated with them, other than the right to use the Docker Marks according to this Agreement. In accepting this Agreement, Reseller acknowledges Docker's ownership of the Docker Marks, their validity and the goodwill connected with the Docker Marks. Reseller will not challenge the validity of the Docker Marks, nor assist any one in challenging them. Reseller agrees not to make any application to register any Docker Mark or any domain names containing a Docker Mark, and not to use or register any trade name, trademark, service mark, slogan, logo or domain name that is confusingly similar to, or a reference to, any Docker common law or registered trademark, trade name or service mark during or after the Term of this Agreement. At the request of Docker, Reseller will execute any papers or documents reasonably necessary to protect the rights of Docker in the Docker Marks and will execute and deliver such other documents as may be reasonably requested by Docker. Reseller's use of the Docker Marks may not state or imply sponsorship or endorsement of Reseller by Docker. Reseller may not disparage Docker, Docker Marks or Products. The right of Reseller to use the Docker Marks will cease immediately upon the termination or expiration of this Agreement, and Reseller must immediately discontinue use of the Docker Marks. If Reseller becomes aware of any (possible or actual) infringement of the intellectual property rights of Docker it will immediately notify Docker in writing. This Section 6.4 will survive termination or expiration of this Agreement.

6.6. Reseller agrees that when using the Docker Marks in any documentation or Promotional Materials to include the following trademark legend: "[Name of Docker trademark] is a trademark of Docker, Inc., registered in the U.S. and other countries. Used under license." Docker's trademark legend will be no less prominent than the trademark legend for Reseller's trademarks.

7. RESTRICTIONS

7.1. Docker reserves all rights not expressly granted in this Agreement and all rights not expressly granted to the Products (including rights under any trademarks, copyrights, patents, or other intellectual property of Docker). Reseller will not use the Products to create an offering competitive with Docker, directly or indirectly, or for the benefit of any other person or entity or permit any third party to make such utilization, unless specifically agreed to in this Agreement. If Docker determines that any of the Products are being used (in whole or in part) by Reseller in any way to (a) avoid paying fees that would otherwise be due hereunder, (b) provide services to third parties outside of the scope of this Agreement or (c) create revenue without payment of fees to Docker for Products, Docker may immediately suspend performance and/or terminate this Agreement, and reserves its rights to exercise any and all legal and equitable remedies available to it under this Agreement or otherwise.

7.2. Without limiting the generality of Section 7.1, Reseller agrees: (i) not to modify the Products in any manner; and (ii) not to use or resell the Products in any manner or for any purpose not permitted by this Agreement, including, without limitation, for Reseller's own internal or production use, other than as may be expressly permitted in this Agreement or by any applicable mandatory rule of law. Should Reseller desire to use the Products for Reseller's own internal or production use other than as expressly permitted in this Agreement, Reseller agrees to purchase the appropriate Docker Products(s) under Docker's standard terms for internal use, and to pay the applicable fee for all periods of use. This Agreement establishes the rights and obligations associated with the Products and is not intended to limit Reseller's rights to software code under the terms of an open source license.

8. INDEMNIFICATION

8.1 **INDEMNIFICATION BY DOCKER.** Docker will defend Reseller against any third-party claim that the Products infringe a registered patent, registered trademark, or copyright of a third party, or misappropriates a trade secret ("Claim"), and will pay Reseller for the resulting amounts finally awarded against Reseller to such third party by a court of competent jurisdiction or agreed to in settlement. Docker will have no liability to Reseller for any Claim that arises out of: (i) any unauthorized use,



reproduction, or distribution of the Products by Reseller or Customer, (ii) use of the Products or Services in combination with any other services, software, content, data, business process, or equipment not supported in Docker's documentation, if such Claim would have been avoided without such combination, (iii) any modification of the Products by anyone other than Docker, including Docker software modified under any open source or copyleft license, (iv) Reseller's breach of any of its obligations under the Agreement or an Order, (v) use of any older release of the Products when a newer version would have avoided the alleged infringement, (vi) Docker's compliance with any materials, designs, specifications or instructions provided by Reseller or Customer, or (vii) any infringement by third-party open-source software components included within the Products. In the event of a Claim pursuant to this Section, Docker will (at Docker's option and expense): (a) obtain for Reseller the right to continue using the infringing Products, (b) modify the Products to make them non-infringing, or (c) if subsections (a) and (b) are not commercially viable, Reseller may terminate the Agreement, in which case Reseller will be entitled to a pro-rated refund of any applicable fees prepaid and unused by Reseller for committed subscriptions for the Products or Services. The Parties agree that this is the sole and exclusive remedy for Claims with respect to the Products or Services.

8.2 INDEMNIFICATION BY RESELLER. Reseller will defend, indemnify and hold harmless Docker and its officers, directors, employees, representatives and agents from and against any third-party claim brought against such Docker parties, and any resulting losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees), to the extent arising from or relating to: (a) Reseller's breach or alleged breach of this Agreement or Reseller's conduct in connection with resale or marketing of the Products, (b) Resellers' issuance of any warranty or representation regarding Docker or its Products not specified in the Customer Agreement.

8.3 INDEMNIFICATION PROCESS. As a condition of receiving any indemnification under this Agreement, the Party seeking indemnification hereunder (the "Indemnified Party") will provide the other Party (the "Indemnifying Party") with: (i) prompt written notice of the claim, provided, however, that the failure to give such notice does not relieve the Indemnifying Party's obligations hereunder, except to the extent that the Indemnifying Party is prejudiced by such failure, (ii) complete control over the defense and settlement of the claim (provided, that the Indemnifying Party will not settle any claim without the Indemnified Party's prior written consent, if the settlement fails to unconditionally release the Indemnified Party from all liability pertaining to such claim, such consent will not be unreasonably withheld, delayed or conditioned), and (iii) such assistance as the Indemnifying Party may reasonably request, in connection with the defense and settlement of the claim, at the Indemnifying Party's expense. The indemnification obligations under this Section state the Indemnifying Party's entire liability and the Indemnified Party's exclusive remedy for third party claims and actions described in this Section.

9. NO WARRANTIES, LIMITATION OF LIABILITY, DISCLAIMER OF DAMAGES, AND INSURANCE

9.1 NO WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS AND DOCKER PARTNER PROGRAM ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

Reseller shall make no representations or warranties on behalf of Docker regarding the Products in connection with the distribution of the Products or otherwise.

9.2 LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FOR ALL EVENTS AND CIRCUMSTANCES, DOCKER'S AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY TO RESELLER AND ITS AFFILIATES ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY ORDER FORM HEREUNDER, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STATUTE OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND WILL NOT EXCEED THE TOTAL AMOUNT PAID TO DOCKER AND ITS AFFILIATES BY RESELLER AND ITS AFFILIATES UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY FOR THE DOCKER PRODUCTS THAT IS THE SUBJECT MATTER OF THE CLAIM. THE FORGOING LIMITATION SHALL NOT APPLY TO CLAIMS FOR BODILY INJURY (INCLUDING DEATH) AND DAMAGE TO TANGIBLE PERSONAL PROPERTY CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF DOCKER OR ITS EMPLOYEES.

EXCEPT FOR BREACHES OF SECTION 2 (LICENSE), SECTION 3 (RESELLER OBLIGATIONS), SECTION 7 (RESTRICTIONS), AND SECTION 10 (CONFIDENTIALITY), IN NO EVENT, WHETHER IN CONNECTION WITH ANY CLAIM OR TYPE OF DAMAGE (WHETHER IN CONTRACT OR IN TORT AND INCLUDING, WITHOUT LIMITATION, FOR BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT) OR OTHERWISE, WILL RESELLER'S MAXIMUM LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT OR ANY SOWS ISSUED HEREUNDER EXCEED THE AGGREGATE AMOUNT OF THE



FEES PAID TO DOCKER BY RESELLER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE LIABILITY. THE LIMITATIONS SET FORTH IN THIS SECTION WILL NOT APPLY TO PERSONAL INJURY OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF RESELLER.

9.3 DISCLAIMER OF DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT OR ANY ORDER FORM, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL DOCKER OR ITS AFFILIATES BE LIABLE TO THE RESELLER OR ITS AFFILIATES FOR: ANY CLAIM BASED ON A THIRD PARTY CLAIM, ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER ARISING IN TORT, CONTRACT, OR OTHERWISE; OR FOR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, DELAYS, LOSS OF DATA, LOST PROFITS, LOST SAVINGS, INTERRUPTION OF SERVICE, LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF DOCKER OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Without limiting the generality of the foregoing disclaimer, Products are not specifically designed, manufactured or intended for use in (a) the planning, construction, maintenance, control, or direct operation of nuclear facilities, (b) aircraft navigation, control or communication systems, weapons systems, or (c) direct life support systems. Reseller agrees that it is solely responsible for the results obtained from its use of the Products.

9.4 INSURANCE. Reseller shall put in place and at all times maintain during the Term and for two (2) years thereafter, at its own cost and expense, appropriate and sufficient commercial general liability insurance with a reputable insurance company to cover Reseller's activities contemplated hereunder. The premiums for these policies of insurance shall be Reseller's responsibility. Upon request, Reseller will provide Docker certificates of insurance for all insurance coverage.

10. CONFIDENTIALITY

10.1. CONFIDENTIAL INFORMATION. The parties agree that Confidential Information provided under this Agreement will be held and maintained in confidence and each party will use at least the same degree of care to protect such Confidential Information that it utilizes to protect its own confidential information, but in no event less than reasonable care. The recipient may use Confidential Information of the other party only for the purposes for which it was disclosed. Confidential Information may be disclosed only to Affiliates, employees, agents and contractors with a need to know, and to its auditors and legal counsel, provided in each case they are under a written obligation or duty to keep such information confidential using standards of confidentiality not less restrictive than those required by this Agreement. "Confidential Information" means all information and materials disclosed by either party to the other during the Term that is either marked confidential or, by the nature of the information or the circumstances surrounding its disclosure, would reasonably be considered confidential. Confidential Information does not include information that (a) is already known to the receiving party at the time it is disclosed and has not been obtained wrongfully, (b) becomes known publicly without fault of the receiving party, (c) is independently developed by the receiving party, (d) is approved for release in writing by the disclosing party, (e) is disclosed without restriction by the disclosing party to a third party, (f) is disclosed pursuant to legal or regulatory obligations beyond the control of the disclosing and receiving parties, or (g) is licensed under an Open Source License (as defined by the Open Source Initiative (www.opensource.org)). Both parties agree that obligations of confidentiality with respect to Confidential Information will exist for a period of three (3) years following initial disclosure of the particular Confidential Information.

10.2. PUBLICITY. Reseller will keep confidential and will not disclose, market or advertise to third parties the terms of this Agreement (including the fees paid hereunder) without the prior written consent of Docker. Reseller or Docker may reference its relationship with the other, in the normal course of business including discussions with analysts, meetings with the press, customer briefings, general marketing activities, and in regulatory filings.

11. TERM AND TERMINATION

11.1. TERM. This Agreement begins on the Effective Date and continues until terminated in accordance with this Section 11 ("Term").

11.2. TERMINATION BY DOCKER OR RESELLER. Docker or the Reseller may (without prejudice to any other right or remedy) terminate this Agreement in whole or in part for any reason at any time upon thirty (30) days prior notice in writing to the other party. Docker or Reseller may (without prejudice to any other right or remedy) terminate this Agreement in whole or in part at any time upon notice in writing to the other party if the other party is in material breach of any obligation thereunder and (in the case of a remediable breach) such breaching Party fails to remedy the breach within thirty (30) days (except for payment



obligations, in which case five (5) days) of being requested in writing to do so unless a shorter cure period is otherwise stipulated under this Agreement, provided, however, that no cure period will be required for a breach of Section 6 (Intellectual Property and Trademarks), Section 7 (Restrictions), Section 10 (Confidentiality) or 13.3 (Compliance with Law and Export Controls) hereof.

11.3. EFFECT OF AGREEMENT TERMINATION OR EXPIRATION. Upon termination or expiration of this Agreement, Reseller will immediately (i) cease referring to itself as a Docker Reseller, and cease using the title in any communication and advertising; (ii) cease all promotion, demonstration, sale(s) and distribution of the Products; (iii) cease all use of the Docker Marks and materials, (ii) remit all fees due to Docker within fifteen (15) days of such termination or expiration. All rights and obligations of the parties under this Agreement will terminate immediately, except that such obligations under Section 4 (Payment), Section 5 (Verifications and Audits), Section 6 (Intellectual Property and Trademarks), Section 8.2 (Indemnification by Reseller), Section 9 (No Warranties, Limitation of Liability, Disclaimer of Damages, and Insurance and Indemnity), Section 10 (Publicity and Confidentiality), Section 11 (Termination), Section 12 (Certain Remedies), Section 13 (General Provisions), and Section 14 (Miscellaneous) hereof, any Reseller payment obligations, and any provision regarding waiver of jury trial, will survive such termination or expiration. Termination of this Agreement shall not affect any agreements between Docker and any Customer.

12. CERTAIN REMEDIES

The parties agree to make a good faith effort to resolve amicably any dispute or controversy before commencing any proceeding (except where urgent injunctive relief is sought).

13. GOVERNING LAW AND VENUE. Any claim, controversy or dispute arising out of or related to this Agreement is governed by the substantive laws of the State of California. To the extent permissible by law, the terms of the United Nations Convention on Contracts or the International Sale of Goods will not apply. Any claim, controversy or dispute arising out of, or in connection with, or with respect to the validity, interpretation and/or enforcement of this Agreement, including the breach thereof, will be finally settled exclusively in the state or federal courts located in the County of Santa Clara, California. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14. COMPLIANCE WITH LAW AND EXPORT CONTROLS

14.1 As between Docker and Reseller, Reseller will be the importer of record of the Products into the countries in which it sells and will be responsible for (a) compliance with all applicable laws, regulations and legal requirements; (b) paying all import duties or tariffs; and (c) obtaining any regulatory approvals and import licenses required by any applicable law.

14.2 Reseller will comply with all applicable laws and regulations including (i) Applicable Data Protection Law, and (ii) all applicable anti-corruption laws and regulations, such as the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (collectively, the "Anti-Corruption Laws"), and will not engage in conduct that would cause Docker to violate any law or regulation including the Anti-Corruption Laws. Among other conduct, the Anti-Corruption Laws prohibit Reseller, directly or indirectly, from receiving anything of value from, or offering anything of value to, either private parties or government or public officials with the intent that the recipient perform improperly a relevant function or activity or a person be rewarded for improper performance. A government or public official includes employees and officers of a government agency, department or instrumentality as well as the employees or officers of government-owned or government-controlled companies, public international organizations, political parties and candidates for political office. Reseller represents and warrants that none of its significant shareholders, owners, Resellers, officers or directors ("Reseller Officials") is a government or public official and that if any of the Reseller Officials becomes a government or public official, Reseller will immediately notify Docker in writing in accordance with the terms of this Agreement. Reseller will not permit its resellers or partners to do anything that would violate or cause Docker to violate any law or regulation including the Anti-Corruption Laws. If Docker believes that Reseller (or any of its resellers or partners) has breached or may breach any of the provisions of this section or a notice is provided pursuant to this section, Docker can immediately terminate this Agreement or stop performing its obligations (including making payments, if applicable) without any liability to Reseller.

14.3 Reseller agrees that it will not re-export the Products, their components or related technical information received from Docker except as permitted by the laws and regulations of the United States of America and the laws and regulations of the jurisdiction in which Reseller obtained the Products, their components or related technical information or that are otherwise applicable. Without limiting the foregoing, Reseller will comply with applicable U.S. export laws, regulations and legal requirements. Reseller acknowledges that the laws and regulations of the United States may restrict the export and re-export of certain commodities and



technical information, including software, of U.S. origins.

14.5 Reseller understands that certain of the Products are subject to United States export controls administered by the U.S. Department of Commerce and the United States Department of Treasury Office of Foreign Assets Control. Reseller acknowledges and agrees that the Products shall not be used, transferred or otherwise exported or re-exported to countries as to which the United States, maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Entity List, Denied Persons List, or Unverified List, or the U.S. Department of State's Nonproliferation Sanctions list (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using or distributing the Products, Reseller represents and warrants that neither Reseller nor any party to whom Reseller exports, re-exports or transfers the Products is located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Reseller agrees to comply strictly with all U.S. export laws and assume sole responsibility for obtaining United States government export licenses to export or re-export as may be required. Reseller will defend, indemnify, and hold harmless Docker and its suppliers and licensors from and against any violation of such laws or regulations by Reseller or any of its agents, officers, directors or employees.

14.6 To the extent required by law or to protect the rights of Docker, Reseller will register this Agreement, at its expense, with any governmental authority requiring such registration, or with which registration is advisable, provided that Docker will have the right to review and approve any application for registration prior to its submission to any governmental authority. At Docker's option, Docker may obtain such registration in its own name. At Docker's request, Reseller will withdraw any application or registration of this Agreement that it has filed.

14.7 Reseller acknowledges that Docker may be prohibited from providing services (including maintenance and support) for Products, their components and related technical information if Docker has knowledge that a violation of the U.S. Export Administration Regulation has occurred. The parties agree to cooperate with each other with respect to any application for any required licenses and approvals; provided, however, that Reseller acknowledges it is Reseller's ultimate responsibility to comply with any and all export, import and use laws and that Docker has no further responsibility after the initial export to Reseller.

15. MISCELLANEOUS

15.1 **NO ASSIGNMENT.** This Agreement is assignable by Reseller only with Docker's prior written consent, which Docker will not unreasonably withhold. Any assignment made by Reseller without Docker's prior written consent will be void and Docker will not be required to recognize the assignment. Docker may assign any or all of its rights and delegate or novate any or all its obligations hereunder without the prior approval of Reseller. At the request of Docker, Reseller will execute any documents reasonably necessary to give effect to such assignment or novation. Reseller shall promptly notify Docker of any material change to its ownership structure.

15.2 **INDEPENDENT CONTRACTOR.** Reseller and Docker are independent contractors for all purposes, without express or implied authority to bind the other. Neither party nor its employees, agents or subcontractors is entitled to any employee benefits of the other. Reseller will be responsible for all costs and expenses incident to performing its business. Nothing in this Agreement shall be deemed to constitute a partnership or create a relationship of principal and agent between the parties for any purpose.

15.3 **FORCE MAJEURE.** Neither party will be liable for nonperformance or delays caused by acts of God, wars, riots, strikes, fires, floods, earthquakes, government restrictions, terrorist acts or other causes beyond its reasonable control. In the event of the occurrence of any of the foregoing, the date of performance will be deferred for a period of time equal to the time lost by reason of the delay. This section does not relieve either party of its obligation(s) to make payments.

15.5 **NOTICES.** All notices, consents, waivers and other communications required or permitted by this Agreement must be in English, in writing, and will be deemed given when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile or e-mail with written confirmation of transmission by the transmitting equipment delivered promptly thereafter; or (c) received by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses, facsimile numbers or e-mail addresses and marked to the attention of the person (by name or title) designated hereafter (or to such other address, facsimile number, e-mail address or person as a party may designate by notice to the other party hereto): For Reseller: the most current address indicated by Reseller to Docker in writing; For Docker: Docker, Inc., 3790 El Camino Real #1052 Palo Alto, CA 94306 USA Attention Legal; legal@docker.com.

15.7 **NO WAIVER OF RIGHTS.** The delay or failure of either Party to exercise any rights hereunder will not constitute or be deemed a waiver or forfeiture of such rights. No waiver will be valid unless in writing and signed by an authorized representative



of the Party against whom such waiver or forfeiture is sought to be enforced.

15.8 **ENTIRE AGREEMENT.** This Agreement will constitute the exclusive terms and conditions with respect to the subject matter of this Agreement, notwithstanding any different or additional terms that may be contained in the form of Order or other document used by Reseller, including subsequent to the date of this Agreement. This Agreement contains the final, complete and exclusive statement of the agreement between the parties with respect to the transactions contemplated herein and all prior written agreements and all prior and contemporaneous oral agreements with respect to the subject matter of this Agreement are contained herein. Except for Docker updates to the Docker Partner Program, this Agreement may not be amended, supplemented or modified except by a written instrument signed by authorized signatories of the parties hereto, which instrument makes specific reference to this Agreement. By enrolling in the Docker Partner Program, Reseller represents, warrants, and agrees that its authorized representative has reviewed, understood, and agreed to the terms of this Agreement in its original English-language format.