

Particular Terms and Conditions

Terms & Conditions for Distribution of Smokescreen Products

1. Definitions

"Documentation" means the user documentation relating to the Products and any other documentation provided to the Partner by GSD for the Partner to provide to End Users. The Documentation shall include all changes provided to the Partner or applicable End Users by SMOKESCREEN TECHNOLOGIES and/or GSD from time to time.

"End User(s)" means any person or entity that uses the Products within the Territory solely for its own internal purposes and does not further distribute, resell, license, sublicense, use as a service bureau or in an ASP setting, or otherwise convey to any other person or entity the Products, in whole or in part, or any rights in the Products.

"License Agreement" means a license agreement directly executed between an End User and SMOKESCREEN TECHNOLOGIES that governs the End User's use of the Products. SMOKESCREEN TECHNOLOGIES reserves the right to modify its License Agreement from time to time. Partner shall make available the latest copy of the License Agreement to the applicable purchasing End User and obtain such End User's signature to the License Agreement (and deliver a copy of the same to GSD) prior to distributing any Products to the End User. The Partner shall ensure that End Users do not modify the License Agreement without SMOKESCREEN TECHNOLOGIES's written consent and SMOKESCREEN TECHNOLOGIES shall not be obligated to accept any modified License Agreement.

"Object Code" means computer programs assembled, compiled, or converted to magnetic or electronic binary form on software media, which are readable and usable by computer equipment.

"Product" means those SMOKESCREEN TECHNOLOGIES products listed on GSD's then current Price List. Products consist of (i) Software or (ii) hardware along with Software embedded thereon.

"Software" means the software products provided by GSD to Partner and which are listed on Exhibit A and all updates, enhancements, bug fixes and new releases thereto. Software is licensed either on a stand-alone basis or as embedded on a hardware Product. Software is licensed in Object Code only.

"Partner Territory" means [United Arab Emirates].

"Intellectual Property Rights" means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

2. Appointment

Subject to the terms and conditions of this Agreement, GSD hereby appoints Partner as a non-exclusive reseller of Products to End Users in the Partner Territory.

The Partner shall not, without the prior written consent of GSD supply the Products to any person:

- (a) Located outside the Partner Territory; or
- (b) To whom the Partner knows or ought reasonably suspect intends to market or resell the Products outside the Partner Territory, whether directly or through any other person.

3. Term and Termination

3.1. Term

Subject to earlier termination as provided herein, this Agreement shall have an initial term of 1 year beginning upon the Effective Date and may be renewed for an additional period of 1 year each at the expiration of the initial term on such terms and conditions as may be mutually agreed by and between the Parties.

3.2. Termination

Either Party may terminate this Agreement (i) immediately in the event of a material breach of this Agreement (particularly the provisions of Clause 2, Clause 4 and Exhibit B to this Agreement) by the other party that is not cured within thirty (30) days of written notice thereof from the other party, or (ii) immediately if the other party ceases doing business (other than in connection with a sale of such party's business or assets to a third party who agrees to assume this Agreement), is the subject of a voluntary bankruptcy, insolvency or similar proceeding, is the subject of an involuntary state or federal bankruptcy, insolvency, or similar proceeding that is not dismissed within sixty (60) days of filing, makes an assignment for the benefit of creditors, becomes unable to pay its debts when due, or enters into an agreement with its creditors providing for the extension or composition of debt.

In addition to the above, either party may terminate this Agreement at any time after 6 months without cause subject to giving the other Party, 90 (ninety) days prior written notice of its intention to do so.

3.3. Effect of Termination

Upon termination or expiration of this Agreement, the licenses granted under Clause 2 shall terminate. All authorized licenses to use the Software granted to End Users pursuant to License Agreements shall continue after termination of this Agreement in accordance with the terms of such License Agreements. All outstanding obligations or commitments of Partner to pay any amounts owed to GSD will survive.

4. Restrictions

4.1. License Agreement

Copies of the Software shall be provided to an End User (for evaluation, use, or any other purpose) only pursuant to the execution of the License Agreement by SMOKESCREEN TECHNOLOGIES (or, in connection with an evaluation, pursuant to an evaluation license agreement in a form approved by SMOKESCREEN TECHNOLOGIES in writing).

4.2. Product Changes

Partner agrees that SMOKESCREEN TECHNOLOGIES shall have the right, in its sole discretion, to change the design, or discontinue developing, producing, licensing or distributing the Products at any time. GSD shall have the right to include new Products to the scope of this Agreement, and, if applicable, including any additional terms, conditions, modifications or deletions necessary for the additional Products. GSD shall ensure that SMOKESCREEN TECHNOLOGIES shall make available support for

such discontinued product for a period of one (1) year after notice of such discontinuance was provided to Partner.

5. Intellectual Property

5.1 Title to Software

The Software and Documentation are (a) protected by Indian and international copyright laws, treaties, and conventions (b) copyrighted work under Indian and foreign laws; (c) protected as trade secrets and Confidential Information. Partner agrees that SMOKESCREEN TECHNOLOGIES retains all right, title, and interest in and to the Software and Documentation, and all patent, copyright, trade secret and other intellectual property rights contained therein and all derivatives thereto, subject only to the limited rights granted to Partner in Clause 2 hereof. Without limiting the generality of the foregoing, and notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement shall be construed as limiting or restricting in any manner GSD's right or ability to appoint partners, re-sellers or representatives of any kind for the Products.

5.2 Restrictions

Except as expressly permitted in this Agreement, Partner will not (and will not allow any third party to): (i) reverse engineer or attempt to discover any source code or underlying ideas or algorithms of the Products, (ii) modify, translate, or otherwise create derivative works of the Products, (iii) incorporate or embed the Products, in whole or in part, into another product or other computer software code, or integrate the Software with any other product; (iv) reproduce or otherwise manufacture the Products, (v) provide license lend, or use the Products for timesharing, ASP or service bureau purposes; or (vi) allow the removal, alteration, covering or obscuring of any copyright notice or any other notice or mark that appears on the Products, Documentation or on any copies, or any media. All rights not expressly granted to Partner herein are reserved by SMOKESCREEN TECHNOLOGIES. There are no implied rights.

5.3 Trademarks

Subject to SMOKESCREEN TECHNOLOGIES authorization, GSD may grant a limited license to the Partner to use its brand-name to market the Products within the Partner Territory, and to use and display SMOKESCREEN TECHNOLOGIES's trade name, trademarks, service marks, and logos for purposes of promotion and marketing of the Products intended for End Users. All such action shall be subject to reasonable advertising and usage guidelines provided by SMOKESCREEN TECHNOLOGIES. In all other respects, this Agreement confers no right or license with regard to SMOKESCREEN TECHNOLOGIES' trade name, trademarks, service marks, logos, or packaging, or any related goodwill, all of which shall be the exclusive property of SMOKESCREEN TECHNOLOGIES. Partner agrees that GSD and/or SMOKESCREEN TECHNOLOGIES may identify the Partner as a sales partner in GSD and/or SMOKESCREEN TECHNOLOGIES advertising and marketing materials. The Partner shall not make any representations, warranties or other statements concerning the Products that are inconsistent with SMOKESCREEN TECHNOLOGIES's marketing materials and advertising. All goodwill associated with SMOKESCREEN TECHNOLOGIES's trademarks and Partner's use of such trademarks shall inure to SMOKESCREEN TECHNOLOGIES. Partner will not use, register or attempt to register, or take other action with respect to any name, logo, trademark, service mark, or other identifier used anywhere in the world by SMOKESCREEN TECHNOLOGIES (or a mark confusingly similar thereto), except to the extent authorized in writing by SMOKESCREEN TECHNOLOGIES in advance. Partner acknowledges that the marketing materials utilized by Partner must be of sufficiently high quality as to provide enhancement to

and protection of the SMOKESCREEN TECHNOLOGIES trademarks and the goodwill they symbolize. Partner shall only utilize marketing materials pre-approved in advance by SMOKESCREEN TECHNOLOGIES. Partner shall avoid deceptive, misleading or unethical practices which are or may be detrimental to SMOKESCREEN TECHNOLOGIES or the Products, and shall refrain from making any false or misleading representations with regard to SMOKESCREEN TECHNOLOGIES, the Products or Services.

6. Warranty

EXCEPT FOR THE EXPRESS WARRANTY MADE DIRECTLY TO END USERS PURSUANT TO THE LICENSE AGREEMENT, SMOKESCREEN TECHNOLOGIES MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES OF ANY KIND WITH RESPECT TO ANY PRODUCTS, SOFTWARE, DOCUMENTATION, MAINTENANCE AND SUPPORT SERVICES OR PROFESSIONAL SERVICES. SMOKESCREEN TECHNOLOGIES SPECIFICALLY DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR TRADE USAGE.

7. Compliance with Laws

The Partner shall, at its own expense, comply with all laws relating to the marketing, sublicensing and distribution of the Product as contemplated hereunder (including but not limited to all import and export laws), and shall procure all licenses and pay all fees and other charges required thereby.

8. Third Party Products

Partner acknowledges that certain third party products ("Third Party Products") are provided by GSD as a "pass through" to Partner and such Third Party Products may be covered by a warranty offered by the third party vendor, not SMOKESCREEN TECHNOLOGIES. Any such Third Party Products shall be identified as such on the order schedule. Any Third Party Products which are supplied with a packaged license or a click-on license included within such third party software are licensed under the terms of and are subject to the terms of such packaged or click-on license, and are not subject to any warranties or indemnification rights contained herein. Any Third Party Products which are not supplied with a packaged license or a click-on license are subject to the terms of this Agreement as "Software" hereunder, except that such products are not subject to any warranties or indemnification rights set out herein. Partner acknowledges and agrees that GSD and/or SMOKESCREEN TECHNOLOGIES makes no warranty of any kind with respect to such Third Party Products, and agrees to look solely to the applicable vendor for warranty support for such Third Party Products. Partner further acknowledges that the Software may contain or be accompanied by certain third party embedded open source software components ("Open Source Components"). These Open Source Components, if any, are identified in, and subject to, special license notices, terms and/or conditions as set forth in the order schedule and/or in the "notices.txt" or similar file accompanying the Software ("Open Source Notices"). The Open Source Notices may include important licensing and warranty information and disclaimers. In the event of conflict between the Open Source Notices and the other portions of this Agreement, the Open Source Notices will take precedence (but solely with respect to the Open Source Components to which the Open Source Notices relate).