Software AG PowerUp Partner Program
Sales Partner Agreement

Between	Software AG South Africa (Pty) Limited	and	Global Softech Solutions
Registration Number	2002/004963/07		2009/048341/23
Registered Office	Culcross on Main Office Park – Building 3, Corner Culcross and Main Roads, Bryanston, Gauteng 2191 ("Software AG")		Suite F16 & F17, Pinewood Square, Pinewood Office Park, 33 Riley Road, Woodmead, 2157, South Africa ("Partner/Sales Partner")
Effective Date	This Agreement shall come into force and effect upon the last date of its signing by duly authorised representatives of all of the parties.		

This Partner Agreement which consists of the following Terms and Conditions and the Exhibits as specified below is made and entered into by and between the entities as listed above.

The following Exhibits are integral elements of this Partner Agreement (collectively the "Agreement"):

Exhibit A: Partner Territory List (as defined under www.softwareag.com/corporate/images/Exhibit_A_Partner_TerritoryList_tcm16-109786.pdf)

Exhibit B: Partner Product List (as defined under www.softwareag.com/corporate/images/Exhibit_B_Partner_ProductList_tcm16-109886.pdf)

Exhibit C: Business Terms for Sales Partner ("Business Terms") as defined under
  - in the Asia Pacific region- www.softwareag.com/corporate/images/Exhibit_C_Business_Terms_Sales_Partner_APJ_tcm16-110232.pdf
  - in the EMEA region- www.softwareag.com/corporate/images/Exhibit_C_Business_Terms_Sales_Partner_EMEA_tcm16-110228.pdf
  - in the Latin America region- www.softwareag.com/corporate/images/Exhibit_C_Business_Terms_Sales_Partner_LATAM_tcm16-110229.pdf
  - in the North American region- www.softwareag.com/corporate/images/Exhibit_C_Business_Terms_Sales_Partner_NAM_tcm16-110231.pdf

Exhibit D: Lead Registration Form (as defined under www.softwareag.com/corporate/images/Exhibit_D_Lead_registration_Form_tcm16-109785.docx)

Exhibit E: Sales Assist Qualifying Form (as defined under www.softwareag.com/corporate/images/Exhibit_E_SalesAssist_Qualifying_Form_tcm16-109784.docx)

Exhibit F: Software AG Code of Conduct & Self Assessment Form (as defined under www.softwareag.com/corporate/images/Exhibit_F_Partner_Code_of_Conduct_tcm16-109783.doc)

Exhibit G: Order Form for Software AG Software and Support Services (as defined under www.softwareag.com/corporate/images/Exhibit_G_SW_and_Support_Services_Order_Form_tcm16-110185.docx)

Exhibit H: Minimum Pass Through License Terms for Sales Partners and Value Added Resellers (as defined under www.softwareag.com/corporate/images/Exhibit_H_Minimum_Pass_Through_Terms_for_Sales_Partners_tcm16-110145.pdf)

Exhibit I: Software AG Product Support and Maintenance Service Terms (as defined under www.softwareag.com/corporate/images/Exhibit_I_Software_AG_Support_tcm16-110146.pdf)

In the event of any conflict or discrepancy between the online version and any printed version of the Exhibits made available to or downloaded by Partner, the online version shall be considered authoritative and take precedence.

In the event of conflict between the Terms and Conditions and the Business Terms, the Business Terms shall take priority.

1. Territory and Choice of Law

Partner will operate his business undertakings related to Software AG as defined subsequently in Section 4 of this Agreement in the regional Partner Territory as described below:

Territory	Republic of South Africa (incl. Lesotho, Swaziland)
Applicable Law and Jurisdiction	This Agreement shall be construed in accordance with, and shall be governed by, the laws of South Africa. Any disputes arising hereunder will be settled before a competent court of law in South Africa.

The Territory must be congruent with a Territory defined in Software AG's Partner Territory List.

2. Contact Information & Notices

Notices to be given in connection with this Agreement and which relate to termination or allegation of a breach must be sent by registered mail with return receipt to the address of the recipient shown below, or any other address the recipient may designate by notice.

All other notices must be in writing and will be sent to the address of the recipient shown below, or any other address the recipient may designate by notice. Notices by hand will be deemed received at the time of delivery. Facsimile and electronic notices will be deemed to have been received immediately on successful transmission.

Contact information Partner

	Ship-To Contact Information	Billing Information (if needed)
Name	Santosh K Choubey	Santosh K Choubey
Address	Suite F16 & F17, Pinewood Square, Pinewood Office Park, 33 Riley Road, Woodmead, 2157, South Africa	Suite F16 & F17, Pinewood Square, Pinewood Office Park, 33 Riley Road, Woodmead, 2157, South Africa
Telephone	███████████████	███████████████
Email Address	███████████████	███████████████

Contact Information Software AG

	Contact Information	Billing Information (if needed)
Name	Joanne Foster	
Address	Culross on Main-Building 3, Cnr Culcross and Main Roads, Bryanston	
Telephone	██████████	
Email Address	████████████████	

3. Signatures

The parties have shown their acceptance of the terms of this Agreement by signing it below. This Agreement shall come into force and effect upon the Effective Date. The Parties agree to the use of digital signatures.

Software AG South Africa (Pty) Limited			
By		**By**	
Name (print)	Mohammed Cassoojee	**Name (print)**	Stephen Sim
Title	VP Sales	**Title**	Finance, Admin & Controlling Director
Date		**Date**	

Partner			
By		**By**	
Name (print)		**Name (print)**	
Title		**Title**	
Date		**Date**	

4. Definitions

In this Agreement, certain capitalized terms shall have the meanings set forth in this Section or as otherwise defined elsewhere.

"Business Terms"	means the terms and conditions of business in respect of the Software AG PowerUp Partner Program as defined in Exhibit C.
"Confidential Information"	means any material or information relating to a Party's research, development, products, services, customers, markets, Documentation (as defined below), inventions, price lists, technologies, finances, or other business information or trade secrets that such disclosing Party treats as proprietary or confidential. Without limiting the foregoing, any software and any databases (including any data models, structures, non-Partner specific data and aggregated data contained therein) of Software AG shall constitute Confidential Information of Software AG.
"Customer"	means a commercial entity within the Territory (as defined in Section 1 of this Agreement) which purchases Software AG Software (as defined below) pursuant to a Customer License Agreement (as defined below).
"Customer License Agreement" or "CLA"	means any of Software AG's or Partner's standard forms of written contract setting out the terms and conditions under which the Customer may be granted a license to the Software AG Software and protecting Software AG's and its licensors Intellectual Property Rights (as defined below) to the Software AG Software. In the event that a Customer License Agreement is signed between Partner and Customer, the respective CLA shall contain terms and conditions at least as restrictive and protective of the Software AG Software as the terms and conditions of this Agreement, including the minimum terms and conditions set forth in Exhibit H and the product specific license restrictions set forth in Exhibit B.
"Documentation"	means Software AG's user manuals, operating instructions, Software AG Software specifications, installation guides and/or related documentation generally made available to licensees of Software AG Software.
"Empower"	means Software AG's Customer & Partner portal, to which duly accredited Partners may have access.
"End User"	means an individual that is entitled to use the Software AG Software pursuant to a Customer License Agreement.
"Influenced Revenue"	means Net Software License Revenue (as defined below) which has been generated by Software AG pursuant to a Customer License Agreement as a result of Partner's active involvement in the sales cycle with the Customer.
"Intellectual Property Rights" or "IPR	means any and all now known or hereafter existing (a) rights associated with works of authorship throughout the world, including exclusive exploitation rights, copyrights, moral rights, and mask works; (b) trade mark and trade name rights; (c) trade secret rights,; (d) patents, designs, algorithms, and other industrial property rights; (e) other intellectual property rights and proprietary rights of every kind and nature throughout the universe, whether arising by operation of law, by contract or license, or otherwise; and (f) all registrations, applications, renewals, extensions, combinations, divisions, or re-issues of the forgoing.
"Lead"	means a potential sales contact; an entity that has expressed an interest in Software AG's Software or Professional Services.
"Lead Registration Form"	means a compulsory form as set out in Exhibit D to be submitted by Partner so as to enable Software AG to qualify a particular Lead and to accept or reject it.
"Licensed Material"	means Software AG Software, Documentation, and Marketing Material (as defined below).
"Marketing Materials"	means any marketing materials related to Software AG Software provided by Software AG to Partner.
"Medallion Level"	means a tier in Software AG's PowerUp Partner Program for Sales Partners with benefits granted to partners in line with partners' contribution and fulfillment of obligations. Definition of tier levels as well as criteria for tier achievement are defined in the Business Terms as set forth in Exhibit C.

"Net Software License Revenue"	means gross revenue actually received by Software AG from a Customer or Partner pursuant to a Customer License Agreement entered into during the term of this Agreement in consideration for the provision of the Software AG Software to such Customer by Software AG, less applicable transaction fees, taxes, duties, collection fees, support and maintenance fees, service fees, third party royalty fees, commissions, any other ancillary charges, and amounts paid or payable by Software AG as refunds or credits to any such Customer with respect to the Software AG Software previously provided, to the extent. Not included in Net Software License Revenue are all other items invoiced to Customer, such as installation, maintenance, services, project services, taxes, etc.
"Order"	means the document by which purchased Software AG Software and Support Services are ordered by Partner. The Order(s) shall reference and be solely governed by this Agreement. All Orders shall be signed by an authorized representative of Partner and shall include information according to Exhibit G of this Agreement
"Party"	means either Partner or Software AG, each individually or collectively.
"Partner Product List"	means the list of Software AG Software products as set out in Exhibit B which may be available to Partner to distribute, market, test and demonstrate pursuant to the terms of this Agreement.
"Professional Services"	means consulting and implementation services provided by Software AG or Partner to a Customer in relation to Software AG products.
"Professional Services Agreement"	means any of Software AG's standard written forms of contract setting out the terms and conditions under which Software AG or Partner shall render Professional Services to the Customer.
"Program Fee"	means the annual fee, as set forth in the Business Terms, to be paid by Partner to Software AG for Partner's participation under this Agreement.
"Proposal"	means a formal proposal to a Lead or Prospect setting out the terms of purchase of Software AG Software by the Lead or Prospect and which shall include, without limitation, relevant commercial, technical and financial information related to such purchase.
"Prospect"	means a prospective Customer whose business needs have been identified by either Software AG or Partner as having the potential of being reasonably fulfilled by Software AG Software and such need has been qualified and accepted by Software AG following the submission of a Lead Registration Form
"Referral Fee"	means an amount based on a percentage of the Referred Revenue as set out in the Business Terms which is payable by Software AG to Partner in recognition of Partner's efforts in generating the Leads resulting in the Referred Revenue.
"Referred Revenue"	means Net Software License Revenue pursuant to a Customer License Agreement which has been generated as a result of Partner identifying a Lead or Prospect previously unknown to Software AG.
"Sales Assist Fee"	means an amount payable by Software AG to Partner based on a percentage of the Influenced Revenue as set out in the Business Terms in recognition of Partner's efforts in the sales cycle.
"Sales Assist Qualifying Form"	means a compulsory form as set out in Exhibit E to be submitted by Partner so as to enable Software AG to qualify the sales effort conducted by a partner as a prerequisite for a Partner to receive a Sales Assist Fee.
"Sales Commission Fee"	means an amount based on a percentage of the Net Software License revenue as set out in the Business Terms which is payable by Software AG to Partner in recognition of Partner's efforts in generating the Leads and subsequently driving the majority of the sales cycle towards the Prospect, resulting in a Customer License Agreement by Partner ("reselling") or Software AG directly ("co-selling").
"Support Services"	means technical support for the Software AG Software under Software AG's then-current policies for the Software AG product family.

"Support and Maintenance Agreement"	means any of Software AG's or Partner's standard forms of written contract setting out the terms and conditions under which the Customer may obtain software support and maintenance services on terms identical to Software AG's Product Support and Maintenance Service Terms and Conditions.as set out in Exhibit I.
"Software AG Marks"	means Software AG's trademarks, service marks, trade names, domain names, logos, business names, product names, and/or slogans.
"Software AG Software"	means any authorized copy of the object code version of Software AG's or its licensors' proprietary computer software programs and related documentation identified under the Partner Product List, as may be changed from time to time by Software AG, and any and all upgrades, updates, enhancements, derivative works, natural successors, translations, adaptations, modifications, compilations, and related documentation licensed to Partner, or otherwise made available to Partner, pursuant to this Agreement
"Software AG's Code of Conduct"	means a set of ethical principles that Software AG aims to follow when conducting its business dealings.
"Source Code"	means the human-readable version of the licensed Software AG Software that can be compiled into executable code.
"Third Party"	means any party that is not Partner or Software AG or one of either Party's employees.
"Third Party Software"	means any product identified as third party product under the Partner Product List.
"Territory"	means the territory as defined in Section 1 of this Agreement in which Partner shall be entitled to operate as a Software AG Sales Partner.

5. Partner's undertakings

Partner will, at its own expense, use commercially reasonable efforts to market the Software AG Software as defined in the Partner Product List to Prospects in the Territory. Specifically, Partner is entitled to resell Software AG Software to Customers as well as Support and Maintenance Services which are to be fulfilled by Software AG (subject to the license grant set out in Section 6). When reselling Software AG Software to Customers, Partner shall contact Software AG to obtain information on valid licensing configurations and list prices; Partner will have sole discretion to establish price schedules to Customers.

Furthermore, Partner is entitled to provide Professional Services to Customers in order to implement and operate Software AG Software at Customer's site pursuant to a Professional Services Agreement between Partner and Customer or a separate subcontractor agreement between Software AG and Partner. Partner's provision of Professional Services can happen in conjunction or independent of reselling Software AG Software.

In the event that Partner identifies a Lead but chooses not to pursue it as reseller of Software AG Software, Partner is advised to refer such Lead to Software AG. Partner will then be entitled to receive a Referral Fee in accordance with the provisions set forth in Section 9a.

Partner is furthermore encouraged to support Software AG by recommending Software AG Software to Prospects in instances where the original Lead was not identified by Partner. Partner will then be entitled to receive a Sales Assist Fee in accordance with the provisions set forth in Section 9b.

6. License Grant

a. **License Grant.** Solely for the duration of this Agreement and subject to its terms, including payment of all relevant fees under this Agreement, Software AG grants to Partner a non-exclusive, non-transferrable right and license, to:
   i. Distribute and sublicense copies of the Licensed Materials on a stand-alone basis directly to Customers in the Territory pursuant to a Customer License Agreement. ("Distribution License").
   ii. Permit End Users to use the Software AG Software solely for non-commercial evaluation purposes for a period not to exceed ninety (90) days or such longer period as may be agreed separately between Software AG and Partner ("Evaluation Use License"), subject to Section 6c;
   iii. use the Software AG Software as defined on the Partner Product List in the Territory solely for testing purposes and for training its own employees ("Test Licenses");
   iv. use the Software AG Software in the Territory solely for the purpose of conducting demonstrations to potential Leads and Prospects, evaluation, quality verification, testing connectivity with Partner's own products, operation

verification on Customer's circumstance ("Demo Licenses").

b. **Restrictions.** Except as expressly set forth in these Terms, Partner agrees that under no circumstance:
   i. Partner will grant access to the Software AG Software licensed herein to any Third Party; or
   ii. the Software AG Software will be left with a Third Party, or at a Third Party's site, no matter whether such Third Party is prospective Customer or not or
   iii. Partner will use the Software AG Software, or allow the Software AG Software being used, on behalf of or to support any Third Parties, whether via a services engagement, outsourcing, service bureau, time-sharing, ASP or otherwise.
   iv. the Software AG Software will be used in a production or development environment, to train Third parties nor to deliver any other training, education, or coaching services neither paid nor free-of-charge outside Partner's direct employees.
   v. Partner will appoint or engage sub-distributors for any purposes hereunder.

Furthermore Partner agrees that none of the Software AG training materials or documentation shall be copied, electronically stored, reproduced or used to create own material for training, education, or coaching purposes, neither partially nor in full.

c. **Evaluation Use.** Partner acknowledges that the licensed Software AG Software may contain a mechanism to disable use of the Software AG Software after the end of any period of permitted use, such period not necessarily corresponding to the Term of the Agreement.

d. **Source Code.** Any and all Intellectual Property Rights in the Source Code for the Software AG Software remains with Software AG or its licensors and will not be shared with Partner or any of Partner's customers or business partners. Any attempt by Partner to disassemble, reverse engineer, reverse compile, modify, adapt, alter, translate or create derivative works of, or in any way modify or attempt to modify the integrity of the Software AG Software will be deemed a material breach which will entitle Software AG to terminate this Agreement with immediate effect.

e. **Support Services.** Software AG has no obligation to provide any Support Services in relation to Test and Demo License usage by Partner as granted under Section 6a.iii and 6a.iv or in relation to Evaluation Use Licenses as granted under Section 6a.ii.

f. **Ownership of the Licensed Materials.** Partner acknowledges that Software AG and its licensors own all right, title, and interest, including all patent, copyright, trade secret, trademark, moral rights, mask work rights, Software AG's Brands and other Intellectual Property Rights ("IPR") in and to the Software AG Software, and Software AG expressly reserves all rights not expressly granted to Partner in this Agreement. Partner shall not engage in any act or omission that would impair Software AG's or its licensors' IPRs in the Software AG Software or any other materials, information, processes or subject matter proprietary to Software AG. Partner will promptly notify Software AG in the event Partner suspects or becomes aware of any misuse of the Software AG Software or any violation, infringement or misappropriation of Software AG's proprietary rights therein by any Customer or other Third Party.

g. **Trademark License.** Subject to the terms and conditions of this Agreement and solely as specified in this Section, Software AG grants to Partner a non-exclusive, non-transferable, revocable, royalty-free license (without the right to grant sublicenses) to use and reproduce the Software AG Marks solely in connection with marketing and referral to the Software AG Software and related Support Services, or consulting services, as the case may be, in the Territory. As concerns materials containing Software AG Marks, Partner shall state (in an appropriate manner and place) that such Software AG Marks are trademarks of Software AG, and where appropriate include the symbol ™ or ®. Partner acknowledges Software AG's exclusive ownership of the Software AG Marks. Partner agrees not to take any action inconsistent with such ownership and to cooperate, at Software AG's request and expense, in any action (including the conduct of legal proceedings) which Software AG deems necessary or desirable to establish or preserve Software AG's exclusive rights in and to the Software AG Marks. Partner will not adopt, use or attempt to register in any jurisdiction the Software AG Marks or any trademarks or trade names that are confusingly similar to the trademarks of Software AG, or in such a way as to create combination marks with the Software AG Marks. At request of Software AG, Partner will provide Software AG with samples of all products and materials that contain the Software AG Marks prior to their public use,

distribution or display for Software AG's quality assurance purposes and will obtain Software AG's written approval before such use, distribution or display. At Software AG's request, Partner will modify or discontinue any use of the Software AG Marks if Software AG determines that such use does not comply with the Software AG's then-current trademark usage policies and guidelines

7. Software Support & Maintenance

Partner is entitled to enter into Software Support and Maintenance Agreements with Customers on terms identical to Software AG's Product Support and Maintenance Service Terms and Conditions.

a. **Support & Maintenance delivery.** Partner hereby agrees that solely Software AG will act as subcontractor and provide all Software Support Services directly to all Customers and End Uses pursuant to Software AG's Product Support and Maintenance Service Terms and Conditions.

b. **Support & Maintenance fees.** Support & Maintenance fees are set forth in the Business Terms.

c. **No Sales Commission on Support & Maintenance.** Reselling Software AG Software Support Services is not subject to any sales commission payment of Software AG to Partner.

8. Order, Delivery, Sales Commissions & Taxes

a. **Order.** Prior to entering into a Customer License Agreement with a Customer, Partner shall place orders for Evaluation and Production use Licenses of Software AG Software and Support Services using the Order Form with every such order. All Order Forms have to be sent to the contact as defined under Section 2 and are subject to Software AGs approval in order to ensure revenue recognition.

b. **Delivery.** Software AG shall deliver the ordered Software AG Software to Partner in accordance with the delivery schedule set forth in the accepted Order usually within five (5) business days. For each licensed Software AG Software, Software AG approves Partner's use and distribution under the terms and conditions of this Agreement, and Software AG shall, in accordance with the delivery schedule set forth in the accepted Order, deliver to Partner a "license key" enabling Partner and/or an End User to use such licensed Software AG Software and accompanying Documentation.

c. **Sales Commission.** Partner shall be eligible to receive a Sales Commission Fee as reward for his effort to drive the sales cycle, if the following conditions collectively apply:
   i. Partner identifies the Lead and provides full details relating to such Lead including, without limitation, any relevant commercial information, contact details for key individuals, any terms agreed between Lead and Partner, as well as any documents submitted by the Lead such as requests for proposal or invitations to tender. Partner must provide such information in writing and documented on the Lead Registration Form.
   ii. The Lead supplied by Partner must become an "Authorized Lead": Software AG may, in its sole discretion, either accept or decline any Lead submitted by Partner. Software AG will not accept Leads which have been already been accepted from another partner or identified by Software AG itself. Software AG will make all reasonable efforts to notify the Partner in writing, within ten (10) business days of receipt of the Lead Registration Form (the "Acceptance Date"), whether the Lead has been accepted or rejected. If accepted, the Lead shall then become an "Authorized Lead".
   iii. Partner actively drives majority of the sales cycle with Customer. Partner shall provide proof by documenting the appropriate activities on the Sales Assist Qualification Form with a minimum number of activities listed in the Sales Assist Qualification Form completed. The minimum number of activities to be completed as prerequisite for a Sales Commission Payment is defined in the Business Terms.
   iv. In the follow up of the Authorized Lead either Partner or Software AG enter into a Customer License Agreement together with a software maintenance agreement within the term of the Partner Agreement, regardless of the agreed date from when the Software AG Software can first be used or the date of delivery of the Software AG Software to the Prospect. For the avoidance of doubt, the Sales Commission Fee pay out is not dependent on the party (Partner or Software AG) signing the Customer License Agreement but is solely rewarding sales effort by Partner on an Authorized Lead submitted by Partner.

The amount of the Sales Commission Fee is defined in the Business Terms.

d. **Records.** For three (3) years after the relevant payment by Partner to Software AG, Partner will maintain at its principal place of business records with respect to Partner's payment pursuant to this Agreement, and all other data needed for verification of amounts to be paid to Software AG under this Agreement.

e. **Audit Rights.** Software AG may, with thirty (30) calendar days' prior written notice to Partner, but on no more than one (1) occasion in any twelve (12) month period, (except that if an audit reveals Partner's breach of this Agreement, such restrictions shall no longer apply), for the limited purpose of conducting an audit, to determine and verify that Partner is in compliance with its payment obligations, have an independent certified public accountant chosen by Software AG, who is reasonably acceptable to Partner ("Auditor"), inspect Partner's data and records. Such Auditor will not unreasonably disrupt Partner's operations. The audit will be at Software AG's expense. If an audit reveals Partner's breach of this Agreement, Partner shall remedy the breach within thirty (30) calendar days, and shall reimburse Software AG for the cost of the audit. Software AG shall bear the cost of the audit unless the audit reveals underpayments in excess of five (5) percent of the payment actually due.

f. **Taxes.** Partner is required by law to deduct withholding taxes from the amounts invoiced by Software AG unless and as far as a tax exemption applies according to the applicable Double Taxation Convention and the related certificate of tax exemption is submitted to Partner.

9. Procedure Regarding Lead Referrals and Collaboration on joint Proposals

a. **Lead Referrals.** Partner may face situations, where Partner identifies Leads, but elects to not actively pursue the sales cycle itself. Partner is encouraged to notify Software AG of any such Leads identified by it. If desired by Partner, Partner shall be eligible to receive a Referral Fee, if the following conditions collectively apply:
   i. Partner provides full details relating to such Leads including, without limitation, any relevant commercial information, contact details for key individuals, any terms agreed between Leads and Partner, as well as any documents submitted by the Leads such as requests for proposal or invitations to tender. Such information must be documented on the Lead Registration Form.
   ii. The Lead supplied by Partner must become an "Authorized Lead": Software AG may, in its sole discretion, either accept or decline any Lead submitted by Partner. Software AG will not accept Leads which have been already been accepted from another partner or identified by Software AG itself. Software AG will make all reasonable efforts to notify the Partner in writing, within ten (10) business days of receipt of the Lead Registration Form (the "Acceptance Date"), whether the Lead has been accepted or rejected. If accepted, the Lead shall then become an "Authorized Lead".
   iii. In the follow up of the Authorized Lead either Software AG or any of its authorized distributors enter into a Customer License Agreement within the term of the Partner Agreement or within twelve (12) months of the end of that Agreement, regardless of the agreed date from when the Software AG Software can first be used or the date of delivery of the Software AG Software to the Prospect.

The amount of the Referral Fee is defined in the Business Terms.

b. **Collaboration on joint Proposals.** Partner may face situations, where Partner does not feel positioned to drive the majority of a sales cycle itself, but rather can assist Software AG in driving such a sales cycle (either on Leads generated by Software AG or by Authorized Leads generated by Partner). Partner is encouraged to support Software AG in recommending the Software AG Software products as defined in the Partner Product List to such relevant Leads. If desired by Partner, Partner shall be eligible to receive a Sales Assist Fee for such support if the following conditions collectively apply:
   i. The relevant Lead is either an Authorized Lead submitted by Partner to Software AG or a Lead generated by Software AG, for which Software AG and Partner jointly agree that payment of a Sales Assist Fee in reward for Partner's contribution to the sales cycle would be appropriate.
   ii. Partner actively supports Software AG in important steps throughout the sales cycle. Partner shall proof such support by documenting the appropriate activities on the Sales Assist Qualification Form with a minimum number of activities listed in the Sales Assist Qualification Form

completed. The minimum number of activities to be completed as prerequisite for a Sales Assist Fee payment is defined in the Business Terms.

iii. Each Party shall be solely responsible for its portion of the Proposal. In addition, each Party will, in good faith, provide to each other any exceptions it may have to the terms and conditions required by the Lead.

iv. Each Party shall use commercially reasonable efforts in the preparation of a competitive Proposal and shall engage in any other reasonable activity which shall aim at the acceptance of the Proposal by the Lead and the award of a Customer License Agreement for Software AG.

v. In the event that the Lead requires changes to the Proposal, the Parties shall collaborate in submitting a response.

vi. Subject to written consent, the Parties shall not enter into any other partnership, collaboration, teaming or similar arrangement with any third parties for the same or similar services related to the Lead, unless and until the Lead has rejected the Parties' offer, or within a period of at least six (6) months after submission of the Proposal, whichever is shorter..

vii. In the follow up of the Lead as defined in Section 9bi Software AG or any of its authorized distributors enter into a Customer License Agreement within the term of the Partner Agreement or within twelve (12) months of the end of that Agreement, regardless of the agreed date from when the Software AG Software can first be used or the date of delivery of the Software AG Software to the Prospect. Partner shall not be entitled to payment of an additional Sales Assist Fee for subsequent sales of Software AG Software that arise after the original sales cycle to the relevant Lead is finalized, unless a separate Sales Assist Qualifying Form is submitted, registered and accepted as defined in this Agreement.

The amount of the Sales Assist Fee is defined in the Business Term.

10. Protection of Partner Professional Services scope for Authorized Leads.

For Authorized Leads submitted by Partner to Software AG, Partner is expected to define the scope of professional services required to implement the Software AG Software. Software AG will not offer own professional services, which would overlap with the scope of professional services the partner offers to the Lead. Should Partner decide not to offer Professional Services at all or not to offer the entire scope of services required to successfully implement the Software AG Software at a prospective customer, Partner will offer Software AG the preferred right to investigate, if the (remaining) implementation services could be offered and provided by Software AG.

11. Software AG Software Products available to Partner

The License Grant as outlined in Section 6 covers all Software AG Software products as defined in the Partner Product List.

12. Business Terms

The Business Terms under this Agreement as set forth in Exhibit C are documented in Software AG's PowerUp Partner Program Guide applicable to the Territory as agreed under Section 1 of this Agreement.

13. Proprietary and Confidentiality Information

a. **Ownership of Confidential Information.** The Parties acknowledge that during the term of this Agreement, each Party will have access to certain Confidential Information belonging to the other party or to third parties in respect of which the disclosing party will have a duty of confidentiality. Both Parties agree that all Confidential Information disclosed pursuant to this Agreement is proprietary to the disclosing Party or the relevant Third Party, as the case may be, and shall remain the sole property of the disclosing Party or such Third Party.

b. **Mutual Proprietary and Confidentiality Obligations.** Unless otherwise set forth in this Agreement, each Party agrees
   i. to use Confidential Information only for the purposes described in this Agreement;
   ii. not to reproduce Confidential Information and to hold it in confidence and protect it from dissemination to, and use by, any Third Party;
   iii. not to create any derivative work from Confidential Information disclosed by the other Party;
   iv. to restrict access to the Confidential Information to its personnel, agents, and/or consultants, who need to have access to such Confidential Information and who have been advised of and have agreed in writing to treat such Confidential Information in accordance with the terms of this Agreement;

   v. not to market or distribute the Confidential Information in any form other than the form delivered by Software AG to Partner;
   vi. to return or destroy all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement.

c. **Confidentiality Exceptions.** Sections 13a and b shall not apply to Confidential Information that:
   i. is publicly available or in the public domain at the time disclosed;
   ii. is or becomes publicly available or enters the public domain through no fault of the recipient;
   iii. is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto;
   iv. is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure;
   v. is independently developed by the recipient; or
   vi. is approved for release or disclosure by the disclosing Party without restriction.

Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required: (A) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law; or (B) to establish a Party's rights under this Agreement, including to make such court filings as it may be required to do.

d. **Proprietary Information Restrictions.** Partner agrees
   i. not to disassemble, reverse engineer, reverse compile, modify, adapt, alter, translate or create derivative works of Software AG Software in whole or in part;
   ii. not to merge Software AG Software with other software;
   iii. not to assign, sublicense, sell, lease or otherwise transfer or convey, pledge as security or otherwise encumber Partner's rights under the rights granted by Software AG.

14. Warranties & Limitation of Liability

a. **Representations and Warranties.** Software AG warrants solely to Partner for twelve (12) months, beginning with the delivery of the Software AG Software to the Partner, but in no case later than four (4) weeks after Software AG's delivery of the license key for the Software AG Software to the Partner, if applicable, that the Software AG Software as delivered, and when used as permitted under this Agreement and in accordance with the Documentation, will substantially perform the material functions (as described in the documentation provided by Software AG with such initial release of Software AG Software) when operated on a computer system that meets or exceeds the computer system requirements set forth in the Documentation. Software AG does not warrant that the Software AG Software will meet Partner's requirements, that the Software AG Software will operate in the combinations which Partner may select for use, or that the operation of the Software AG Software will be uninterrupted or error-free. For any breach of the warranty set forth in this Section, Partner's sole and exclusive remedy, and Software AG's entire liability and obligation shall be, at Software AG's election, to repair or replace the applicable Software AG Software component and provide such repaired or replaced Software AG Software component in the next release of the Software AG Software that is made available by Software AG to Partner.

b. **LIMITATION OF LIABILITY.** EXCEPT FOR DAMAGES ARISING FROM A BREACH OF SECTION 13, 15, OR 17, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY for any special, indirect OR punitive, damages, including damages or costs incurred as a result of loss of data, loss of profits, or loss of goodwill. Except For damages arising from a breach of Section 13 OR 15 in no event shall Software AG's or its licensor's total cumulative liability for any damages to Partner or any other party ever exceed in the aggregate fees paid by Partner to Software AG for the Software AG Software in the previous year.

15. Indemnification

a. **Indemnification by Software AG.** Software AG agrees to defend, indemnify, and hold Partner harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities arising out of any claim by a Third Party that any use of, or access to, the Software AG Software by Partner as expressly authorized under this Agreement infringes or misappropriates, as applicable, any patent issued as of the Effective Date or any copyrights or trade secrets under applicable laws of any jurisdiction within the Territory, provided that Partner gives Software AG: (i) prompt written notice of such claim; (ii) authority to control and direct the defense and/or settlement of such claim; and (iii) such information and assistance as Software

AG may reasonably request, at Software AG's expense, in connection with such defense and/or settlement. Software AG shall have no obligation or liability to the extent that the alleged infringement arises from: (1) the combination, operation, or use of the Software AG Software with products, services, software, hardware, information, materials, technologies, business methods or processes not furnished by Software AG; (2) modifications to the Software AG Software; (3) failure to use updates to the Software AG Software provided by Software AG; (4) use of the Software AG Software which breaches these Terms and Conditions; (5) use of the Software AG Software except in accordance with the Documentation; or (6) any misrepresentations made by Partner regarding Software AG or the Software AG Software (circumstances under the foregoing clauses (1) through (6) herein, collectively, "Partner Indemnity Responsibilities"). If Software AG determines that the Software AG Software is or is likely to be the subject of a claim of infringement, Software AG shall have the right (a) to replace Customer's copy with non-infringing software that has substantially equivalent functionality, (b) to modify the Software AG Software so as to cause the Software AG Software to be free of infringement, (c) to procure, at no additional cost to Partner, the right to continue use of the Software AG Software, or (d) to refund to Partner fees paid to Software AG for the applicable Software AG Software, depreciated on a straight-line basis over a five year period. Furthermore, upon the occurrence of any claim for which indemnity is or may be due under this Section, or in the event that Software AG believes that such a claim is likely, Software AG may terminate this Agreement on written notice to Partner. The obligations set forth in this Section shall constitute Software AG's entire liability and Partner's sole remedy for any actual or alleged infringement or misappropriation.

b. **Indemnification by Partner.** Partner agrees to indemnify, hold harmless, and, at Software AG's option, defend Software AG from and against all losses, expenses (including reasonable attorneys' fees), damages, and liabilities resulting from any claim by any Third Party arising from or in connection with Partner Indemnity Responsibilities. Software AG agrees to give Partner prompt written notice of such claim and, if Software AG elects to require Partner to provide defense, Software AG shall give Partner: (i) authority to control and direct the defense and/or settlement of such claim; and (ii) such information and assistance as Partner may reasonably request, at Partner's expense, in connection with such defense and/or settlement. Partner shall not settle any third-party claim against Software AG unless such settlement completely and forever releases Software AG with respect thereto or unless Software AG provides its prior written consent to such settlement. In any action for which Partner provides defense on behalf of Software AG, Software AG may participate in such defense at its own expense by counsel of its choice.

16. Term and Termination

a. **Term.** This agreement shall commence on the Effective Date and shall expire on December 31 of the following first full calendar year after the effective date ("the Initial Term") so that the Initial Term shall run for a period between 12 and 23 months. This Agreement shall continue for additional terms ("Renewal Terms") of 12 months each after the expiration of the Initial Term unless terminated by either Party upon three (3) months prior written notice.

b. **Termination for Breach.** Either Party may terminate this Agreement with immediate effect by written notice, if the other Party commits a material breach of this Agreement and, in the case of a breach capable of remedy, fails to remedy such breach within thirty (30) days of receipt of a notice of default from the other party, specifying the breach and requiring its remedy. Notwithstanding the foregoing, in the case of breach resulting from non-payment of amounts due hereunder, the party in breach will have ten (10) days after receiving written notice to make full payment. For the avoidance of doubt, any breach of the Business Terms shall be deemed a material breach.

c. **Termination upon Bankruptcy, Insolvency, and Change of Control.** Either Party may terminate this Agreement with immediate effect upon written notice in the event that (i) the other party ceases or threatens to cease to carry on its business; (ii) with respect to the other party, bankruptcy, insolvency, liquidation or similar proceedings (whether mandatory or voluntary), or the commencement thereof, are pending, filed for, or denied due to the lack of assets; (iii) the other party makes any arrangement for the benefit of its creditors; or (iv) the other party goes into liquidation. Furthermore, Software AG will be entitled to terminate this Agreement with immediate effect upon written notice if direct or indirect ownership or control of Partner that exists on the Effective Date of this Agreement changes in a manner that, in Software AG's judgment, may adversely affect Software AG's rights.

d. **Accrued Obligations.** Termination or expiry of this Agreement for whatever reason will will not affect any accrued rights or liabilities as at the date of termination, including the payment of any sums outstanding under this Agreement. Notwithstanding the foregoing, upon termination or expiry of this Agreement no compensation or other goodwill payments shall be payable by one party to the other solely in respect of the fact of termination.

e. **Cumulative Remedies.** Termination of this Agreement, regardless of cause or nature, shall be without prejudice to any other rights or remedies of the Parties and shall be without liability for any loss or damage occasioned thereby. Except as otherwise expressly stated in this Agreement, all remedies specified in this Agreement are cumulative with any other remedies that may be available at law or in equity.

f. **Effect of Termination.** Upon termination of this Agreement, each Party shall (i) immediately discontinue all use of the other Party's Confidential Information, including the Licensed Material; (ii) delete the other Party's Confidential Information from its computer storage or any other media, including, but not limited to, online and off-line libraries; iii) provide written confirmation of such deletion on the other Party's request; (iv) shall return to the other Party or, at the other Party's option, destroy, all copies of such other Party's Confidential Information then in its possession; and (v) shall promptly pay all amounts due and remaining payable hereunder. Partner must make reasonable effort to transfer Support Service Agreements with Customers to Software AG within 12 months after termination of this Agreement. Up until a Support Service Agreement is being transferred from Partner to Software AG, Partner will continue to be obliged to pay the corresponding maintenance fees to Software AG. Professional Service Agreements executed by Partner with Prospect or Lead shall not be affected by termination of this Agreement.

g. **Survival of Obligations.** The provisions of Sections 13 – 16 as well as Partner's obligations to pay any amounts due and outstanding hereunder, shall survive termination or expiration of this Agreement.

17. Export, Excluded Use

a. **Export.** The Partner may not download or otherwise export or re-export any underlying software, technology or other information from the Software AG Software except as stated explicitly in this Agreement and in full compliance with all applicable national and international laws and regulations. The Partner agrees to indemnify and hold harmless and defend SOFTWARE AG against any and all liability arising from or relating to the Partner's breach of this Section.

b. Software AG reserves the right not to execute affected parts of, or the entire Agreement, in case any national or international export regulations or foreign trade legislation, or any target country / customer / usage restrictions implied by embargos or other sanctions prohibit the provision of export controlled goods (Dual-Use items) and services to be granted to the Partner under this Agreement. Software AG will inform the other Party whether a related official export approval by national or international export control authorities is required. Provision of affected goods and services will then be postponed until all such required approvals have been granted. The provision of agreed goods or services not restricted by the above mentioned export prohibitions will remain unaffected of this regulation.

c. **Excluded Use.** The Software AG Software is not designed or intended for use in on-line control of aircraft, air traffic, aircraft navigation or aircraft communications; or in the design, construction, operation or maintenance of any nuclear facility, and Partner agrees not to use or distribute the Software AG Software for such purposes.

d. **Indemnity.** Partner agrees to indemnify and hold harmless and defend Software AG against any and all liability arising from or relating to Partner's breach of this Section.

18. Miscellaneous

a. **Force majeure.** Software AG shall be excused from performance of its obligations under this Agreement if such a failure results from acts of god, fire, strike, embargo, terrorist attack, war, insurrection or riot or other causes beyond the reasonable control of Software AG. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.

b. **Assignment.** Partner shall not assign its rights or delegate its obligations under this Agreement without Software AG's prior written consent. Any merger, consolidation, reorganization, transfer of substantially all assets of Partner or other change in control or ownership of Partner shall not be considered an assignment for the purpose of this Agreement. This Agreement shall be binding upon and inure to the benefit of Software AG and Partner and their successors and permitted assigns.

c. **Independent Contractors.** Partner and Software AG acknowledge and agree that the relationship arising from this Agreement does not constitute or create any joint venture, partnership, employment relationship or franchise between them, and the Parties are acting as independent contractors in making and performing the Agreement.

d. **Amendment.** No amendment to this Agreement shall be valid unless such amendment is made in writing and is signed by the authorized representatives of the Parties.

e. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement will remain in full force and effect and will not in any way be impaired. If any provision of this Agreement is invalid or unenforceable for any reason, but would be valid or enforceable if some part of the provision were deleted, such provision shall be adjusted to the minimum extent necessary to cure such invalidity or unenforceability.

f. **Third Party Data Privacy.** The Parties shall comply with all laws governing the protection of personal data ("Data") including any data protection acts as amended (the "Acts") in force in a particular country of the Territory, and shall ensure that its employees, agents and subcontractors observe the provisions of the Acts. The Parties further undertake to ensure the security and confidentiality of Data in order to prevent:
    i. accidental, unauthorized or unlawful destruction, alteration, modification or loss of Data,
    ii. accidental, unauthorized or unlawful disclosure or access to Data, and
    iii. unlawful forms of processing.

g. **Publicity.** Both Parties agree to publicly promote the partnership for mutual benefit.
    i. Partner agrees that Software AG, upon the execution of this Agreement, may announce this relationship by means of a press release, marketing campaign or otherwise.
    ii. Partner shall be included in Software AG's partner inventory as shown on Software AG's corporate website. Partner shall provide a supplementary text describing his business and the nature of the partnership within the framework of Software AG's then current style guide for the partner listing.
    iii. Partner agrees that Software AG may, without any further approval, post Partner's name and logo in Software AG's

marketing materials identifying Partner as a Software AG independent contractor.
    iv. Subject to Partner compliance with the terms of this Agreement, Partner may, throughout the term of this Agreement, use the title "Software AG PowerUp Sales Partner" and the respective logo in Partner's own marketing material for usage in Partner's business activities. To the extent Software AG may add in the future additional descriptors of special expertise of Sales Partners under the Software AG PowerUp Partner Program, Partner will be entitled to use such descriptors in Partner's own marketing material in accordance with the Business Terms as defined in the Business Terms.

h. **Annual Business Plan and Forecast.**
    i. Partner agrees to provide to Software AG, on an annual basis, a completed business plan for the upcoming year outlining Partner's market approach and targeted software license revenues generated from marketing the Software AG Software.
    ii. Partner shall submit to Software AG on a regular monthly basis a detailed forecast (including backlog) for prospective customers to be targeted within the following six (6) month period. The forecast shall include anticipated orders of Software AG Software to be generated as set forth in the Agreement.

i. **Code of Conduct & Self-Assessment Form.** Partners are expected to adhere to the set of ethical principles that Software AG has given itself to guide it in its business dealings. Partner shall fill in and provide a signed copy of the forms as documented in the Software AG Code of Conduct & Self-Assessment Form. This Agreement is valid pending to receipt of a signed copy of both forms by Software AG.

j. **Credit Check.** Software AG values financial health of its business partners. This Agreement is valid pending a credit check as defined by standards of Software AG covering the Partner's Territory as specified in Section 1 of this Agreement, which shall be executed prior to the Effective Date of this Agreement and which can periodically be executed throughout the Term of this Agreement at Software AG's discretion and expense for the purpose of ongoing validation. Prior to conclusion of this Agreement, Partner shall provide Software AG with a recent credit report issued by either his local bank or a business-to-business information company like Dun & Bradstreet or Kreditauskunft. Costs for creating such a report are at the sole expense of Partner.

k. **Entire Agreement.** This Agreement (together with all Exhibits referred to in the beginning constitutes the entire agreement between the Parties hereto with respect to its subject matter and it supersedes previous agreements, discussions and understandings between the Parties with respect to the subject matter, and neither of the Parties shall be bound by any conditions, inducements or representations other than as expressly provided for herein.