

BETSOL, LLC
RESELLER AGREEMENT

1. APPOINTMENT OF RESELLER; RELATIONSHIP OF THE PARTIES.

(a) Appointment. Subject to the terms and conditions of this Agreement, BETSOL hereby appoints Reseller and Reseller hereby accepts the appointment as BETSOL's non-exclusive (subject to the limitations in Section 1(b) and 1(c)) distributor of the BETSOL solutions set forth in Schedule A ("Solutions") solely for the internal use by end user customers ("End User") of Reseller and not for resale to other distributors or any other third parties. BETSOL also hereby grants to Reseller the right to bundle the BETSOL Solutions with additional products and services, subject to BETSOL's right to disapprove any such bundle upon notice to Reseller. BETSOL reserves the right to, at any time, change, modify, or discontinue any of the BETSOL Solutions set forth in Schedule A. Additionally, BETSOL may, but is not obligated to, add additional products to the BETSOL Solutions set forth in Schedule A. BETSOL has the right to assign Reseller to its authorized distributors or to itself upon notice to Reseller.

(b) Non-exclusive. This appointment is not exclusive to Reseller. BETSOL may appoint at any time and from time to time other distributors, resellers, agents, or third parties to perform the same services as Reseller. BETSOL reserves the right to market and solicit sales directly and through other resellers or distributors, and through any other channel of distribution that BETSOL in its sole judgment deems desirable, and Reseller will not be entitled to any commission, discount, or any other compensation with respect to, or on account of, any such sale. Reseller shall require each End User to execute enforceable written agreements that are at least as protective of BETSOL and the Products (and all intellectual property rights therein) as the then current version of BETSOL's standard form end user agreement for the applicable Products that BETSOL has provided to Reseller.

(c) Relationship of the Parties. Notwithstanding anything to the contrary herein, including the designation of Reseller as a BETSOL non-exclusive reseller, BETSOL and Reseller shall not be deemed to be partners, agents, employer or employee, master or servant, associates, joint venturers or to have any relationship other than independent contractors. Reseller's employees and agents are not and shall not be deemed to be agents or employees of BETSOL. Reseller and its agents and employees shall fully cooperate with BETSOL and shall not make, or represent the ability to make, commitments on behalf of BETSOL without first obtaining BETSOL's prior express written consent and specific authorization therefore. Reseller shall be liable for, indemnify, defend, and hold harmless BETSOL from and against, any claims by Reseller's agents, employees, or third parties for any compensation, benefits, taxes, unauthorized commitments, and similar matters.

(d) BETSOL grants no rights or licenses except those expressly and unambiguously set forth in this Agreement.

2. TERM; TERMINATION.

(a) Term. The term of this Agreement will commence on the Effective Date and will continue for a period of one year (the "Initial Term"). Provided that BETSOL accepts Reseller's yearly renewal application, this Agreement will continue to automatically renew for additional one-year terms (the "Renewal Term").

(b) Termination. This Agreement will terminate upon occurrence of any of the following events:

(i) By either party, for convenience, upon providing thirty (30) days prior written notification of termination to the other party.

(ii) By either party, for material breach of this Agreement, upon the other party's failure to substantially cure the material breach within thirty (30) days of receipt of a written notice of such material breach setting forth all relevant facts; provided, however, that any willful unauthorized use, copying, modification, reverse engineering, disclosure, distribution or sublicensing of the BETSOL Technology or any related methods, algorithms, techniques or processes will be deemed a material breach of this Agreement that cannot be cured, and termination may be immediate.

(iii) Immediately, in the event that Reseller has not made payments to BETSOL and/or the assigned distributor in accordance with Section 3 and payment arrangements cannot be agreed upon within five (5) days.

(iv) If Reseller is dissolved, BETSOL may terminate this Agreement upon written notice to Reseller.

(v) By written notice to the other party, if either party engages in a Change of Control. A "Change of Control" with respect to a party shall mean one or more of the following occurrences: (i) all or substantially all of the party's assets have been sold to a third party, whether by asset sale, merger, reorganization or otherwise, or (ii) a third party acquires voting control of a party hereto.

(c) Effect of Termination. After Termination, Reseller will return to BETSOL within fifteen (15) days all BETSOL Solutions, products, documents, materials and confidential information (as applicable) in its possession or under its control and will certify the same to BETSOL in writing, and all rights and licenses granted to Reseller hereunder shall immediately cease. Notwithstanding the foregoing any and all license rights granted by Reseller to End Users, pursuant to the EULA, during the term of this Agreement shall survive any termination of this Agreement, including by reason of Reseller's bankruptcy, and shall continue in full force and effect. With respect to such surviving EULAs, license fees due hereunder shall continue to be paid directly from the existing End Users to BETSOL.

3. FEES AND PAYMENT.

(a) Payment. For all purchases of the BETSOL Solutions directly from BETSOL, Reseller will pay BETSOL in full any amounts due within 30 days from the date of invoice for such BETSOL Solutions. All payments will be due in U.S. Dollars and Reseller will have no right of setoff. BETSOL will have the right to charge Reseller a delinquent payment service charge on the amount of any fees not paid when due in accordance with this Section 3 at a rate equal to the lower of: (i) one and one-half percent (1-1/2 %) per month; or (ii) the highest rate permitted by applicable law. The delinquent payment service charge will be in addition to BETSOL's other rights for any breach of this Agreement by Reseller. BETSOL will be entitled to recover from Reseller reasonable legal fees and costs incurred in collecting any sums owed by Reseller to BETSOL under this Agreement.

(b) Taxes. All present and future sales, excise, and similar taxes, duties, or other charges on any payments made by an End User to Reseller, Reseller to distributor, or by Reseller to BETSOL with respect to the BETSOL Solutions required by any taxing authority will be paid by Reseller. BETSOL will not be responsible for the calculation, collection, reporting, or remittance of any such taxes. If Reseller fails to pay any such taxes for which it is liable and demand is made to BETSOL to pay such taxes, Reseller will promptly reimburse BETSOL for the payment of any such taxes and any penalties and interest. Reseller will submit to BETSOL documents certifying payment of such taxes if so requested, or an exemption certificate evidencing exemption from such taxes.

4. TITLE; OWNERSHIP OF INTELLECTUAL PROPERTY.

Reseller acknowledges that the BETSOL Solutions are comprised of proprietary technology owned by BETSOL, or licensed by third parties to BETSOL, (collectively, the “BETSOL Technology”). Reseller agrees and acknowledges that as between the parties, BETSOL is the owner or licensor of all right, title and interest, including all intellectual property thereto, in and to the BETSOL Technology, excluding the Freeware. Reseller shall not, and shall ensure that its employees, representatives, and End Users, do not reverse-engineer, decompile or disassemble the BETSOL Solutions or any other Confidential Information disclosed or made available to it under this Agreement and shall not remove, overprint or deface any notice of confidentiality, copyright, trademark, logo, legend or other notices of ownership, proprietary rights, or confidentiality from any originals or copies of Confidential Information it obtains from BETSOL. BETSOL shall retain all right, title and interest to the BETSOL Solutions and/or its Confidential Information.

5. OBLIGATIONS OF RESELLER.

(a) Facilities. During the Term of this Agreement, Reseller shall maintain adequate facilities, resources and personnel, and to maintain at all times the highest professional standards and performance and to use its best efforts to promote and market the BETSOL Solutions to End Users under terms and conditions consistent with those contained in the EULA. Reseller shall provide a location, facilities and staffing reasonably acceptable to BETSOL for the purpose of marketing the BETSOL Solutions.

(b) Reporting. During the term of this Agreement, Reseller shall, on a monthly basis, provide to BETSOL a forecast of anticipated sales of BETSOL Solutions by region along with a pipeline report, including the names, addresses, email addresses and telephone numbers of prospects. Reseller shall, on a monthly basis, provide to BETSOL a sales report of all BETSOL Solutions sold by Reseller for the prior month by region, including the names, addresses, email addresses and telephone numbers of End Users. Both reports are to be sent to BETSOL no later than fifteen (15) days after the end of each calendar month.

(c) Commitment of Trained Reseller Resources. Reseller shall ensure that at least one (1) employee or representative of Reseller who has completed a training program approved by BETSOL is available to provide Services hereunder.

(d) Cooperation. The Parties shall provide reasonable cooperation and assistance to each other, and consult with each other as necessary to facilitate the efficient and timely delivery of the BETSOL Solutions.

(e) Non-Solicitation. The Parties shall not solicit employees from each other during the terms of this agreement and for a period of one (1) year following the termination or expiration of this Agreement.

(f) Compliance with Laws. Reseller shall use all diligent efforts to license or distribute the BETSOL Solutions to End Users as permitted hereunder and comply with good business practices and all applicable laws and regulations of the United States (including but not limited to, United States laws and regulations governing export, foreign corrupt practices, and the like), pay all fees and other charges required by such laws and regulations, and maintain in full force and effect all material licenses, permits,

authorizations, registrations and qualifications from all applicable governmental departments and agencies to the extent necessary to perform its obligations hereunder.

(g) Restrictions on Use. Reseller shall not (and shall not permit others to) attempt to (a) reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form any of the BETSOL Solutions, (b) rent, sell, lease or encumber the BETSOL Solutions or any part thereof or use it for the benefit of any third party, including without limitation time-sharing and using the BETSOL Solutions in a service bureau environment, or (c) remove, obscure, alter or fail to reproduce any notices, designations or other marks included on or with the BETSOL Solutions or marketing materials by BETSOL. In addition, Reseller acknowledges that the results of any performance tests of the BETSOL Solutions and services rendered using the BETSOL Solutions shall constitute Confidential Information of BETSOL.

h) Non-Competition. Reseller shall not market, promote, sell, lease, solicit or procure orders for or otherwise represent any product in competition with BETSOL or any of the BETSOL Solutions and shall conduct its business in a manner that favorably reflects upon the BETSOL Solutions.

i) End User Agreements. Reseller shall obtain written agreements with End Users as required by Section 1 above and fully enforce the obligations required by this Agreement on End Users.

The failure by Reseller to comply with any of its obligations as set forth in this Section 5 shall constitute a breach of this Agreement and shall entitle BETSOL to give notice to Reseller requiring it to cure such breach.

6. REPRESENTATIONS AND WARRANTIES.

Reseller represents and warrants and covenants that:

(a) The information provided on any registration or application form submitted to BETSOL is true and correct and will continue to be so during the term of this Agreement, unless Reseller otherwise notifies BETSOL in writing. Should there be any changes in information during the Initial Term or any Renewal Term of this Agreement, Reseller agrees to promptly notify BETSOL. Reseller understands that a change in information may affect Reseller's status hereunder;

(b) It will meet all requirements applicable to Reseller pursuant to any BETSOL reseller program, as such may be established by BETSOL from time to time;

(c) It has full power and authority to enter into this Agreement;

(d) It shall conduct its business in a manner that reflects favorably at all times on the BETSOL Solutions and the name and goodwill of BETSOL;

(e) It shall make no representation, warranties, or guarantees with respect to the BETSOL Solutions, or their features, functionality, or specifications that are additional to or inconsistent with BETSOL's then current published documentation for the BETSOL Solutions;

(f) It shall make no representation, warranties, or guarantees on behalf of BETSOL; and

(g) It is responsible for ensuring that any distribution of the BETSOL Solutions through Reseller is subject to a legally binding EULA where applicable. Reseller shall ensure that each End User acknowledges and agrees to the terms and conditions of the EULA as a condition to its use and access to the BETSOL Solutions, as applicable.

Reseller shall indemnify and hold BETSOL harmless from any claim, loss, cost, fine or expense, including reasonable attorneys' fees, arising out of any breach of Reseller's representations and warranties in this Section 6.

7. DISCLAIMER OF WARRANTY.

BETSOL MAKES NO WARRANTIES IN CONNECTION WITH THE BETSOL SOLUTIONS OR BETSOL TECHNOLOGY (OTHER THAN PASS-THROUGH WARRANTIES FROM THIRD PARTY SOFTWARE OR HARDWARE PROVIDERS, AS AVAILABLE), WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR USE. RESELLER IS NOT AUTHORIZED TO MAKE ANY WARRANTY COMMITMENT ON BETSOL'S BEHALF, WHETHER WRITTEN OR ORAL.

8. LIMITATION OF LIABILITY.

IN NO EVENT SHALL BETSOL BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF USE OR OF DATA, INTERRUPTION OF BUSINESS, OR FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER UNDER THIS AGREEMENT OR OTHERWISE, EVEN IF BETSOL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM AGAINST RESELLER BY END USERS OR ANY OTHER PARTY. IN NO CASE WILL BETSOL BE LIABLE FOR ANY REPRESENTATION OR WARRANTY MADE TO ANY END USER OR OTHER THIRD PARTY BY RESELLER, ANY AGENT OF RESELLER, ANY DISTRIBUTOR OR DEALER OR OTHER PERSON OR ENTITY IN THE DISTRIBUTION CHAIN. IN NO EVENT WILL BETSOL'S AGGREGATE LIABILITY EXCEED THE AMOUNT OF FEES RECEIVED BY BETSOL HEREUNDER FOR THE THEN CURRENT INITIAL TERM OR RENEWAL TERM OF THE AGREEMENT.

9. CONFIDENTIALITY.

(a) Reseller shall (i) hold the Confidential Information (as defined below) of BETSOL in trust and confidence and shall not disclose or release the Confidential Information to any person or entity, and (ii) not use the Confidential Information for any purpose whatsoever except as expressly set forth herein. Reseller shall treat the confidential information with the same degree of care it uses for its own most sensitive and confidential information, but not less than a reasonable degree of care. Reseller shall disclose the Confidential Information only to those of its employees having a need to know such Confidential Information and shall take all precautions necessary to ensure that its employees comply with the provisions of this paragraph. "Confidential Information" means the BETSOL Technology and BETSOL Solutions and any and all information or a portion thereof of a proprietary confidential and/or trade secret nature, disclosed to or otherwise observed by Reseller or its employees, agents or affiliates (each individually referred to as a "recipient") either directly or indirectly, whether oral, written, or in other form, technical documentation, know-how, trade secrets, knowledge, concepts, data, reports, methodology, pricing, business affairs, and any other information or knowledge owned or developed by BETSOL, except for information which Reseller can demonstrate: (w) was at the time of disclosure, generally part of the public domain or thereafter becomes generally part of the public domain through no act or omission of Reseller; or (x) was lawfully in Reseller's possession as shown in written records prior to such disclosure and without obligation of confidentiality; or (y) was lawfully received by Reseller after disclosure from a third party without obligation of confidentiality and without violation by such third party of an obligation of confidentiality to another; or (z) was independently developed by Reseller without any use of or benefit of Confidential Information.

10. TRADEMARKS.

(a) Reseller may refer to itself, and be referred to, as a "BETSOL Reseller" during the Term of this Agreement consistent with BETSOL's then current guidelines. Subject to all the terms and conditions of this Agreement, BETSOL hereby grants Reseller a non-exclusive, non-transferable license to use the BETSOL Trademarks.

(b) Reseller hereby acknowledges and agrees that (i) the BETSOL Trademarks are owned solely and exclusively by BETSOL; (ii) except as set forth herein, Reseller has no rights, title or interest in or to the BETSOL Trademarks; and (iii) all use of the BETSOL Trademarks by Reseller shall inure to the benefit of BETSOL. Reseller agrees not to use or apply for registration of the BETSOL Trademarks (or any mark confusingly similar thereto) anywhere in the world, including as domain names or subdomain names. Reseller agrees that it shall not engage, participate or otherwise become involved in any activity or course of action that diminishes and/or tarnishes the image and/or reputation of any BETSOL Trademarks.

11. INSURANCE.

Reseller will have and maintain, during the term of this Agreement and for a period of two (2) years thereafter, adequate insurance to cover its obligations hereunder, including general liability and errors and omissions insurance.

12. GENERAL.

(a) This Agreement and the attached Schedules contains the entire agreement among the parties hereto with respect to the subject matter hereof, and no modification, amendment, change or supplement shall be effective unless in writing and signed by the party against which it is sought to be enforced. This Agreement supersedes all prior proposals, understandings, negotiations and agreements relating to the subject matter hereof.

(b) No change, waiver, discharge, or modification of any of the terms of this Agreement shall be valid unless in writing signed by both parties.

(c) Any written notice required by this Agreement will be sufficiently made on the mailing date if (a) delivered (i) by personal service, (ii) by recognized international courier service, or (iii) by facsimile transmission and confirmed immediately in writing by a copy sent by recognized international courier service, or (b) when received, if sent by certified or registered mail, postage prepaid, return receipt requested to the address included on Reseller's application or registration submitted to BETSOL, if to Resellers, or to the address set forth in the preamble for BETSOL, if to BETSOL. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as provided herein will be deemed to be receipt of the notice, demand, or request sent. By giving to the other party written notice thereof, the parties and their respective permitted successors and assigns will have the right from time to time and at any time during the term of this Agreement to change their respective addressee or address for notices.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and the United States Government without giving effect to conflicts of law or other U.N. Convention on the International Sale of Goods, and regardless of the place of its physical execution and performance. The parties hereby irrevocably consent and agree that, except as set forth herein, any dispute, controversy or claim arising out of or relating to this Agreement, including the formation, interpretation, breach or termination thereof, including whether the claims asserted are arbitrable, will be referred to and finally determined by arbitration in accordance with the JAMS International Arbitration Rules. The tribunal will consist of three arbitrators. The place of arbitration will be Denver, Colorado. The language to be used in the arbitral proceedings will be English. The prevailing party in the arbitration shall be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys' fees, expert witness fees and all other expenses) incurred in connection therewith. Judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief pending a final decision by the arbitrator(s), provided that a permanent injunction and damages shall only be awarded by the arbitrator(s). For all purposes of this Section 13(d), the parties consent to exclusive jurisdiction and venue in the United States Federal Courts located in Denver, Colorado.

(e) If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

(f) Neither BETSOL nor Reseller will not be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure or disruption of the Internet.

(g) Neither this Agreement, nor any of its rights or obligations may be assigned or otherwise transferred or delegated by Reseller. Any attempt to do any of the foregoing in contravention of this Agreement shall be void and of no force and effect. BETSOL may freely assign, delegate and transfer this Agreement and its rights and obligations hereunder.

(h) Each party intends that this Agreement will not benefit, or create any right or cause of action in or on behalf of, any person or entity other than Reseller and BETSOL.

(i) Sections 2(c), 3 (to the extent that any fees or taxes remain unpaid at the termination of this Agreement), 4, 5, 6(e), 7, 8, 9, 10, 11, and 12, shall survive termination or expiration of this Agreement.

(j) During the term of this Agreement and for a period of three (3) years thereafter, Reseller shall prepare and maintain complete and accurate records with respect to all matters relating to the subject matter of this Agreement, including agreements with End Users, including the name, title, address, e-mail address, phone number and fax number; and provide such records to BETSOL upon request. In addition, BETSOL reserves the right to audit the books and records of Reseller, including the above material, upon seven days prior notice during business hours. In the event that the audit discloses an underpayment discrepancy in the amounts owed hereunder, Reseller shall make immediate payment for such underpayment. In the event that the audit discloses underpayment discrepancy of greater than three percent (3%), Reseller shall pay the audit fees associated with any such audit.



THE TERMS AND CONDITIONS STATED ABOVE WILL APPLY TO THE BETSOL RESELLER PROGRAM. YOUR SIGNATURE ON THIS APPLICATION WILL INDICATE YOUR UNDERSTANDING OF AND CONSENT TO THE TERMS AND CONDITIONS OUTLINED ABOVE. THIS AGREEMENT BECOMES EFFECTIVE ON THE DATE THAT BETSOL APPROVES IT. BETSOL IS UNDER NO OBLIGATION TO SIGN THIS AGREEMENT, ALLOW RESELLER TO BECOME PART OF THE PROGRAM, OR MAKE ANY PARTICULAR DESIGNATION. THIS PROGRAM AND RELATED REQUIREMENTS ARE SUBJECT TO CHANGE WITHOUT NOTICE.

Schedule A

BETSOL

1. Reseller may resell the following BETSOL Products to End Users:

- All Zmanda branded products of BETSOL listed on <https://zmanda.com/>

The BETSOL Products are offered to End Users on a subscription basis. The subscriptions are offered for terms of one (1) year. During the term of the subscription, BETSOL will provide to the End User all Updates, upgrades, and bug fixes for the applicable BETSOL Product at no additional cost to End User. BETSOL reserves the right to, at any time, change, modify, or discontinue any of the BETSOL Solutions set forth in Schedule A. Additionally, BETSOL may, but is not obligated to, add additional products to the BETSOL Solutions set forth in Schedule A. BETSOL has the right to assign Reseller to its authorized distributors or to itself upon notice to Reseller.

2. Reseller may resell BETSOL Support Agreements to End Users. All support under the BETSOL Support Agreements will be provided by BETSOL, or its designated agent, and not by Reseller.