

HP AllianceONE Partner Program Agreement

Between

the Solution Partner

hereinafter referred to as „Solution Partner“

and

HEWLETT-PACKARD GmbH

AllianceONE

Herrenberger Straße 140

71034 Böblingen

Germany

hereinafter referred to as „HP“

1. RELATIONSHIP

- a) Solution Partner who is either an ISV or Web Service provider

ISV (Independent Software Vendor) who wishes to develop, convert, test, certify, demonstrate and deploy certain hardware/software products/services for use with HP Products as described in this Agreement.

Web Service provider who develops services that are made available from the partner's Web server(s) (or via a contracted hosting company's server(s)) for Web users or other Web-connected programs.

Both groups agree to devote commercially reasonable efforts to develop, convert, test, certify, demonstrate and deploy certain Solution Partner's products/services for use with HP Products. In the event Solution Partner makes any new versions, releases, updates, upgrades or other enhancements to the certain products/services generally available during the term of this Agreement ("Enhancements"), Solution Partner will simultaneously or within a reasonable period of time thereafter enable and make the Enhancements generally available for use with HP Products.

- b) Solution Partner is a SI (System Integrator) who provides integration or consulting services for HP solutions or platforms and shall inform its key customer-engagement staff (e.g. technical consultants, sales, alliances, marketing) about the benefits of the Solution Partner Program and encourage them to register for the program in order to achieve the scope of this Agreement and to receive the benefits described in 1b.
- c) HP wishes to assist Solution Partner by providing access to the content and developer tools that HP may make available through the AllianceONE program ("AllianceONE Program"), formerly called Developer & Solution Partner Program ("DSPP") and the associated web site portal ("Portal"), including discounts on the purchase of certain approved HP Products, necessary to develop, convert, test and demonstrate Solution Partner's products/services and provide integration or consulting services for HP solutions or platforms in EMEA.
- d) Solution Partner agrees that it is solely responsible for all costs and expenses of developing the products/services and for all marketing of the products/services, except as otherwise agreed by HP in a separate, written agreement.
- e) HP wishes to make available to its customers and internal audiences information about products and services available for HP platforms. Solution Partner wishes to provide information on its company/products/services and HP may, at its sole discretion, publish this information on HP websites and in other HP collateral and marketing materials.

2. HP PRODUCTS

- a) Solution Partner may place HP Products based system configuration orders from any HP-authorized resellers during the term of this Agreement.
- b) Pricing will be based on the HP pricelist for authorized resellers that are in effect at the time of the respective order. HP will grant additional discounts on the prices specified in the pricelists to the authorized HP resellers, enabling these resellers to supply the Solution Partner pursuant to the recommended retail price of HP. The HP reseller is solely responsible for stipulating the final conditions for the Solution Partner.
- c) The contractual provisions for the handling of deliveries are to be agreed separately between Solution Partner and the respective HP reseller. From time to time, HP may add, delete or change Products offered in connection with the Solution Partner Program; obsolete Products; change list prices or discounts.
- d) Solution Partner agrees to use the Products for one year after shipment primarily for development and testing purpose. Furthermore he agrees not to resell the products during this time.
- e) Solution Partner agrees to not use the said equipment for production deployment of web service offerings.

3. REPRESENTATION AND TRADEMARKS

- a) For the Term of this Agreement and subject to Participant complying with the terms and conditions of this Agreement and the requirements on the Portal which are incorporated by reference, HP may authorize Participant to identify itself as an "HP Business Partner" and to display the HP Business Partner Insignia depicted on the Portal (the "Insignia"), and such other HP trademarks for which Participant receives explicit permission from HP as provided on the Portal (the "Authorized Marks").
- b) Participant may display the Insignia and the Authorized Marks, if applicable, solely for the fair and accurate marketing of Participant's products and services that have been developed, certified and deployed for use with HP Products in accordance with this Agreement.
- c) Participant will comply with HP's trademark specifications and instructions made available on the Portal (the "Specifications"), including but not limited to the following:
 - 1) Participant will not use or display the Insignia and/or the Authorized Marks, if applicable, in a manner that is not accurate or in a manner that is likely to confuse or mislead as to the relationship between Participant and HP. All materials that bear the Insignia and/or the Authorized Marks, if applicable, must also bear Participant's corporate name and/or logo. The Insignia shall be physically separated from, and displayed in a size and location less prominent than, Participant's own names, marks or logos.
 - 2) Participant will only use artwork provided by HP for the Insignia and/or the Authorized Marks, and will not modify this artwork in any manner.
 - 3) Participant will not use the Insignia and/or the Authorized Marks, in a manner that compromises or reflects unfavorably upon the goodwill, good name, reputation or image of HP, or which might jeopardize or limit HP's proprietary interest in HP's name, insignia, symbols, logo, trade names, or marks (collectively "HP Marks"). Participant agrees to follow honest and ethical business practices, to comply with all applicable laws and regulations, and to seek a high level of customer satisfaction.

- 4) Participant may not apply the Insignia and/or the Authorized Marks to contracts, warranties and/or other legal documents.
 - 5) Participant may not include the words "HP", "HEWLETT PACKARD", "NONSTOP", "HP-UX", "EDS", or any other HP Marks in its corporate, business, or domain names.
- d) HP may change, modify or add to the Specifications at any time by updating the Portal. HP will not routinely notify Participant of changes in the Specifications and Participant agrees to periodically review the Portal to ensure familiarity with the Specifications and ongoing compliance. Participant must implement any required changes or discontinue use of the Insignia and/or the Authorized Marks as soon as commercially practical. In the event HP notifies Participant of its failure to comply with the Specifications, Participant must comply within thirty (30) days of such notification.
 - e) HP may, in its sole discretion, require that Participant stop all use of the Insignia and/or the Authorized Marks, if applicable, and Participant will comply with such request as soon as commercially practical, but in any event within five (5) days of receiving HP's request.
 - f) Other than the limited authorization under this Agreement, HP conveys no license or right to use any other HP Marks by this Agreement. In particular, this Agreement does not grant any right to use the trademarks "HP", "HEWLETT PACKARD", "EDS", or the HP logo per se unless such use is in strict compliance with the explicit requirements on the Portal.
 - g) All use of the Insignia and/or the Authorized Marks by Participant, if applicable, shall inure to the benefit of HP. The Insignia and the Authorized Marks shall remain the exclusive property of HP and will be used and displayed by Participant only in the manner and to the extent expressly agreed upon by HP, and only for the purposes of this Agreement.
 - h) No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are granted by either party to the other except as expressly provided under this Agreement.
 - i) Except as provided in this Agreement and on the Portal, Participant will not display the Insignia, the Authorized Marks, or any other HP Marks in any written or media material without prior written consent of HP. Participant may not make statements (either express or implied) relating to HP's sponsorship or endorsement of Participant's products or services without the express written permission of HP. Such statements must be specific as to the products or services, and must be fair, accurate and current.
 - j) HP may, but is not obligated to, permit Participant to directly upload fair and accurate information regarding Participant and Participant's authorized products/services/distributors/customers to a profile on a site operated or sponsored by the AllianceONE Program. HP may permit Participant to upload its company or product logo(s) and trademarks to this site. Participant warrants that it owns or has rights to use any logos and trademarks or other materials it uploads to the AllianceONE Program, and that they do not infringe any third party rights. Participant acknowledges that HP may remove Participant's trademarks, logo(s) and/or profile from its site with or without cause.
 - k) Participant authorizes HP to use Participant's trademarks without prior written consent in HP marketing collateral or venues that list products/companies or profile products that interoperate with HP products based on information provided by Participant, including but not limited to, HP corporate websites such as www.hp.com and the Portal. Participant may request withdrawal of this authorization at any time with a written notice.
 - l) Participant will advise HP immediately if it receives or becomes aware of a third-party claim, formal or informal, based in whole or in part related to content, logos or trademarks uploaded by Participant to the Portal or otherwise provided to HP.

- m) Participant agrees to indemnify HP against any claims made against HP related to Participant's materials, trademarks or logos posted to HP's sites or used by HP in accordance with this Agreement.
- n) THE INSIGNIA AND AUTHORIZED MARKS, IF APPLICABLE, ARE PROVIDED AS-IS, WITHOUT WARRANTY OR INDEMNITY OF ANY KIND. HP EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, STATUTORY AND OTHERWISE, WITH RESPECT TO THE INSIGNIA AND THE AUTHORIZED MARKS, INCLUDING ANY WARRANTY OF TITLE, NON-INFRINGEMENT AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- o) Any breach of this Section will be considered a material breach of this Agreement.

4. TERM AND TERMINATION

- a) This Agreement will commence upon the effective date specified below and remain in effect for one (1) year unless terminated earlier under this Section.
- b) This Agreement will renew automatically for additional one (1) year periods, provided Solution Partner is:
 - 1) meeting its obligations under this Agreement; and
 - 2) maintaining the accuracy of its company, contact and product/service information. Provided these two conditions are met, this Agreement will renew automatically for additional one (1) year periods.
- c) Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.
- d) Either party may terminate this entire Agreement for cause unless the other party cures the breach within fifteen (15) days of written notice of such breach. Notice of user dissatisfaction with technical provisions of Partner's solution shall be considered to be good cause for termination.
- e) Upon termination or at any time at HP's sole discretion HP may discontinue display of information describing Solution Partner's products/services. Notice of user dissatisfaction shall be considered good cause for termination.
- f) All rights and any license granted to Solution Partner will cease upon termination of this Agreement.

5. CONFIDENTIALITY

- a) If the parties exchange confidential information, the receiving party will protect the confidential information of the other in the same manner in which it protects its own equivalent proprietary, confidential, and trade secret information, but with no less than reasonable care. To be treated as confidential information under this Agreement, prior to disclosure, the party disclosing the confidential information must either mark such information as "confidential", or if such information is provided orally, notify the receiving party in writing that the information is confidential within thirty (30) days of its communication. Unless agreed otherwise, such information will remain confidential for two (2) years after the date of written disclosure.

- b) Participant will use confidential information for the purpose of fulfilling its obligations under this Agreement and not for any other purpose. Participant will not publicize or disclose to any third party the contents of this Agreement without prior written consent from HP.
- c) The following information will not be classified as confidential information. Information that is:
 - 1) A matter of public knowledge at the time of disclosure, or becomes one, through no fault of the recipient's;
 - 2) Rightfully received by the recipient from a third party without a duty of confidentiality;
 - 3) Independently developed or learned by the recipient;
 - 4) Disclosed under operation of law;
 - 5) Disclosed by the recipient with the discloser's prior written approval, but subject to the terms of that approval; or
 - 6) Rightfully, in the recipient's possession before the disclosure.

6. MISCELLANEOUS

- a) Solution Partner and HP agree that no right, title or interest in each other's products is granted or may be implied from the Agreement except as expressly stated.
- b) HP reserves the right to refuse to sell HP Products/services under this Agreement, if in HP's sole judgment the intended use of the equipment does not satisfy the conditions stated herein.
- c) Solution Partner warrants that it owns all legal rights to the software and its portions or at least has legal right to distribute all software products, and all portions thereof, which may be included within this Agreement.
- d) Solution Partner and HP agree that each is an independent contractor and that no relationship of agency, partnership, joint venture, legal representative or other form of association with regard to HP or HP's Products is intended by or may be claimed by Solution Partner in connection with this Agreement. This Agreement does not authorize either party to represent, act for, bind or commit the other.
- e) This Agreement will not obligate either party to use or market products developed by the other party, nor will it restrict either party in connection with offering or developing similar or competing products or entering into similar agreements with other parties.
- f) Solution Partner may not issue a press release relating to this agreement without HP's prior written consent. Neither party will make any claim or representation about the other party or its products or services other than as currently published by such other party.
- g) Participant may not assign or transfer any rights or obligations hereunder without prior written consent from HP. HP may, however, assign any rights and obligations hereunder to another Hewlett-Packard entity at any time subject to written notice.
- h) Solution Partner agrees to receive periodic information on products, programs, or other HP offerings.
- i) From time to time, HP may add or delete HP Products from the AllianceONE Program; change list prices or discounts; implement or change HP policies or programs; change or terminate the AllianceONE Program; or otherwise amend this Agreement or its sections at HP's discretion, after reasonable notice to Participant in writing or through the Portal.

- j) Except as provided in sub-section 6.i above, no amendment to this Agreement will be binding on either party unless made in writing and signed by authorized representatives of both parties.
- k) By entering into this Agreement, Participant hereby consents to HP's use of any information Participant may provide in connection with the AllianceONE Program in profiling Participant and its products/services/distributors/partners/customers in furtherance of the AllianceONE Program marketing Participants products/services availability on HP platforms, and for any other purpose permitted under this Agreement. Participant specifically agrees that HP may use any information provided by Participant to profile Participant and its products/services/distributors/partners/customers on a web site owned or otherwise sponsored by HP. HP also may use information on how to contact Participant's employees such as names, work phone numbers and work e-mail addresses in any country where any HP organization or Participant does business. Participant will maintain the accuracy of the information provided to HP as part of the AllianceONE Program and/or the Portal, as well as regularly update or supplement such information upon HP's reasonable request. To the extent Participant provides HP with any personal data collected by Participant or Participant's authorized third parties (including information collected from end users), Participant represents and warrants that such information is processed in accordance with the provisions of all applicable data protection legislation.
- l) Section 5 (confidentiality) of this Agreement will survive expiration or termination.
- m) The laws of Germany will govern disputes arising in connection with this Agreement. The Uniform Laws of the United Nations Convention of Contracts for the International Sale of Goods shall not apply. The courts of Stuttgart will have jurisdiction for all matters pertaining to or arising from this Agreement.

SIGNATURES

On behalf of HP



Peter Murray
HP ESSN Alliance Director EMEA