



## RESELLER AGREEMENT

**Reseller Name:** \_\_\_\_\_

**Reseller Address:** \_\_\_\_\_

**Website:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Email:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Reseller Authorization Number (Provided by MDO after Accepted):** \_\_\_\_\_

This Agreement is between MDO Ltd., by and through (“COMPANY”) and the reseller named above (“Reseller”) and establishes the terms and conditions for Reseller’s participation in the eBoostr Reseller Program (the “Program”). Under the Program, COMPANY will provide marketing and promotional support to Reseller as specified in this Agreement related to Reseller’s purchase and license of eBoostr products for resale either.

### 1. Relationships

- 1.1. Reseller is an independent contractor engaged in purchasing eBoostr products for resale to its customers. Reseller is not an agent or legal representative of COMPANY for any purpose, and has no authority to act for, bind or commit COMPANY.
- 1.2. Reseller has no authority to make any commitment on behalf of COMPANY with respect to quantities, delivery, modifications, interfacing capability, suitability of software or suitability in specific applications. Reseller has no authority to modify the warranty offered with COMPANY products. Reseller will indemnify COMPANY from liability for any modified warranty or other commitment by Reseller not specifically authorized by COMPANY.
- 1.3. Reseller will not represent itself in any way that implies Reseller is an agent or branch of COMPANY. Reseller will immediately change or discontinue any representation or business practice found to be misleading or deceptive by COMPANY immediately upon notice from COMPANY.

### 2. Reseller Program

- 2.1. COMPANY affords 30% Reseller’s discount for the product regular price published at the product website (<http://www.eboostr.com/order/>). All payments between COMPANY and Reseller as well as the product delivery shall be made via third party e-commerce provider Plimus, Inc. (<http://www.plimus.com/>)
- 2.2. Reseller shall exert best efforts to market eBoostr products, and shall use all promotional materials supplied by COMPANY. It is Reseller’s responsibility to help its customers determine which system configuration would best serve their needs.
- 2.3. Reseller shall have sufficient technical knowledge of the eBoostr products in general, and will have access to appropriate COMPANY sales and technical training.
- 2.4. COMPANY does not represent that it will continue to manufacture any particular item or model of product indefinitely or even for any specific period. COMPANY specifically reserves the right to modify any of the specifications or characteristics of its products, to remove any product from the market, and/or to cease manufacturing or supporting it.
- 2.5. Reseller is expected and encouraged to advertise and promote the sales of COMPANY products through all appropriate media including trade show exhibits, catalogs and direct mailings, space advertising, educational meetings, sales aids, etc.



COMPANY must approve all such materials that use COMPANY's name or trademarks. COMPANY will assist Reseller in advertising and promoting COMPANY products in accordance with COMPANY's policy.

### **3. Term, Limitations, Termination**

3.1. The term of this Agreement is twelve (12) months from the date of acceptance by Reseller and COMPANY. This Agreement shall automatically renew on each subsequent year for a one-year term, unless it is terminated earlier in accordance with this Agreement.

3.2. COMPANY or Reseller may terminate this Agreement without cause at any time upon thirty (30) days written notice or with cause at any time upon fifteen (15) days written notice, except that neither the expiration nor earlier termination of this Agreement shall release either party from any obligation which has accrued as of the date of termination.

3.3. COMPANY may, from time to time, give Reseller written notice of amendments to this Agreement. Any such amendment will automatically become a part of this Agreement thirty (30) days from the date of the notice, unless otherwise specified in the notice.

3.4. Upon expiration, non-renewal or termination of this Agreement, all interests in accrued marketing funds (if any) will automatically lapse.

### **4. Limitation of Liability**

4.1. UNDER NO CIRCUMSTANCES, INCLUDING ANY INFRINGEMENT CLAIMS, SHALL COMPANY BE LIABLE TO RESELLER OR ANY OTHER PARTY FOR ANY RE-PROCUREMENT COSTS, LOST REVENUE OR PROFITS OR FOR ANY OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF COMPANY HAS BEEN INFORMED OF SUCH POTENTIAL LOSS OR DAMAGE.

### **5. Use of COMPANY Trademarks**

5.1. Reseller acknowledges the following:

5.1.a. COMPANY owns all right, title and interest in the product and COMPANY names and logotypes.

5.1.b. COMPANY is the owner of certain other trademarks and tradenames used in connection with certain product lines and software.

5.1.c. Reseller will acquire no interest in any such trademarks or tradenames by virtue of this Agreement, its activities under it, or any relationship with COMPANY.

5.2. During the term of this Agreement, Reseller may indicate to the trade and to the public that it is an Authorized Reseller of the COMPANY products. With COMPANY's prior written approval, Reseller may also use the COMPANY trademarks and tradenames to promote and solicit sales or licensing of COMPANY products if done so in strict accordance with COMPANY's guidelines. Reseller will not adopt or use such trademarks or tradenames, or any confusingly word or symbol, as part of its company name or allow such marks or names to be used by others.

5.3. At the expiration or termination of this Agreement, Reseller shall immediately discontinue any use of the product and COMPANY names or trademarks or any other combination of words, designs, trademarks or tradenames that would indicate that it is or was a reseller of the COMPANY products.

### **6. Product Warranty**

6.1. The warranty terms and conditions will be as specified in the product Standard Terms and Conditions of Sale.

6.2. COMPANY'S WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

### **7. Proprietary Information**

7.1. COMPANY and Reseller shall each exercise due diligence to maintain in confidence and not disclose to any third party any proprietary information furnished by the other to it on a confidential basis and identified as such when furnished. Except in accordance with this Agreement, neither party shall use such information without permission of the party that



furnished it. As used in this paragraph, “due diligence” means the same precaution and standard of care which that party uses to safeguard its own proprietary data, but in no event less than reasonable care. The provisions of this Section shall survive for five (5) years beyond the expiration, non-renewal or termination of this Agreement.

7.2. This Agreement does not grant any license under any patents or other intellectual property rights owned or controlled by or licensed to COMPANY. Reseller shall not have any right to manufacture COMPANY products.

**8. Compliance with Laws**

Reseller agrees to comply with all laws and regulations that are applicable to the business that Reseller transacts. Reseller agrees to indemnify and hold COMPANY harmless for all liability or damages caused by Reseller’s failure to comply with the terms of this provision.

**9. Government Contract Conditions**

In the event that Reseller elects to sell COMPANY products or services to the Government, Reseller does so solely at its own option and risk, and agrees not to obligate COMPANY as a subcontractor or otherwise to the Government. Reseller remains solely and exclusively responsible for compliance with all statutes and regulations governing sales to the Government. COMPANY makes no representations, certifications or warranties whatsoever with respect to the ability of its goods, services or prices to satisfy any such statutes and regulations.

**10. Miscellaneous**

Notices under this Agreement must be sent by telegram, fax or registered or certified mail to the appropriate party at its address stated on the first page of this Agreement (or to a new address if the other has been properly notified of the change). A notice will not be effective until the addressee actually receives it. This Agreement represents the entire agreement between the parties regarding this subject. This Agreement supersedes all previous oral or written communications between the parties regarding the subject, and it may not be modified or waived except in writing and signed by an officer or other authorized representative of each party. Neither party will be liable to the other for any delay or failure to perform if that delay or failure results from a cause beyond its reasonable control. If any provision is held invalid, all other provisions shall remain valid, unless such invalidity would frustrate the purpose of this Agreement. COMPANY and Reseller will attempt to settle any claim or controversy arising out of it through consultation and negotiation in good faith and a spirit of mutual cooperation. Any dispute which cannot be resolved through negotiation or mediation may be submitted to the courts of appropriate jurisdiction.

**Reseller**

**MDO Ltd.**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_