

Orbit Partner Plus Reseller Agreement

This RESELLER AGREEMENT is made and entered into as of the ___ day of _____, 2002, by and between Orbit Communication Corp. a Massachusetts corporation, located at 47 Brewster Rd. Sudbury, MA 01776 ("Vendor") and _____, a _____ corporation located at _____ ("Reseller").

- A. WHEREAS, Vendor has developed certain software programs and hardware solutions ("Products") and desires to distribute the Products identified on Exhibit A to this Agreement.
- B. WHEREAS, Reseller desires to order Products from Vendor and act as an independent marketer and reseller of Vendor's Products. Reseller desires to join Vendor's Partner Plus Program and take advantage of its benefits as reflected on Exhibit B to this Agreement.

NOW, THEREFORE, it is agreed between the parties hereto as follows:

1. APPOINTMENT

- a. Appointment Subject to the terms and conditions of this Agreement, Vendor hereby appoints Reseller as an independent, non-exclusive authorized reseller for the Products listed on Exhibit A, and Reseller hereby accepts said appointment.
- b. Software Product Limitations Reseller will not copy, alter, decompile, disassemble, or rent the Software Products. Nothing contained in this Agreement shall preclude or limit in any way Vendor's right to market or service worldwide, either directly or indirectly, Products or any of its other products. All right, title and interest in and to the Products are, and shall remain, the sole property of Vendor.
- c. Hardware Product Limitations Reseller will not copy, alter, disassemble, or rent the Hardware Products. Nothing contained in this Agreement shall preclude or limit in any way Vendor's right to market or service worldwide, either directly or indirectly, Products or any of its other products. All right, title and interest in and to the Products are, and shall remain, the sole property of Vendor.

2. RESELLER MARKETING OBLIGATIONS

- a. Marketing efforts Reseller will use reasonable efforts to promote, market, and distribute the Products to End Users in accordance with this agreement.
- b. Minimal Commitments Depending on the participation level chosen by Reseller on Exhibit A, Reseller's initial order must include at least the minimum order stated for the corresponding level on Exhibit A. During the initial one-year term of this Agreement, Reseller shall purchase, at a minimum, that amount of Products required by the Program Level chosen by Reseller on Exhibit A.

3. Vendor PARTNER PLUS PROGRAM OBLIGATIONS

As a member of the Partner Plus Program, Reseller receives the special Benefits as reflected on Exhibit B that correspond with Reseller's Program Level.

4. PRICE

The price for each Product ordered by Reseller from Vendor shall be Vendor's then-current published suggested retail price, less the appropriate Reseller discount specified in Exhibit B that corresponds with Reseller's Program Level.

5. TERM OF AGREEMENT

- a. This Agreement shall continue in force for one (1) year from the date of the Agreement ("Initial Term"). At the end of the Initial Term, and at the end of each Renewal Term thereafter, this Agreement shall be automatically renewed for an additional one (1) year term ("Renewal Term") unless earlier terminated by either party on thirty (30) days written notice. Program subject to change with 30 day notice.
- c. Early Termination. If Reseller shall (i) be in breach, in any material respect, of any of its obligations hereunder, (ii) become insolvent or unable to pay its debts as and when due, (iii) make an assignment for the benefit of creditors, or (iv) file for protection under bankruptcy or similar laws, then in any such case, Vendor may terminate this Agreement by sending written notice to such effect to Reseller at least thirty (30) days prior to the effective date thereof. Such termination shall be effective on the date set forth in the notice, unless Reseller cures such default or breach within such notice period. Such right of termination shall be in addition to and shall not prejudice any other rights or claims that Vendor may have against Reseller. For the purposes of this Section 5, failure by Reseller to (i) make payments as provided in Section 4, or (iii) adhere to the requirements of Sections 5, 6, 7, 8, and 9 shall be deemed a material breach of its obligations hereunder.
- d. Consequences of Termination. The parties shall not by reason of the termination of this Agreement, for any reason whatsoever, be liable to each other for compensation or damages for present or prospective loss of profits, goodwill, creation of clientele, salaries, expenditures, investments or commitments made in connection herewith. Upon the termination of this Agreement, howsoever the same shall occur:
 - (i) Vendor will fill such orders as have been accepted by Vendor and the Reseller shall accept the Products subject thereto and pay the purchase price therefor in accordance with the provisions of this Agreement; and
 - (ii) Reseller shall return to Vendor at Reseller's expense, all Vendor furnished Proprietary Data except for that data specifically required to service and maintain installed Products.
- e. Survival. The provisions of Sections 5, 6, 7, 8 and 9 shall survive the term of this Agreement, until the expiration of all patents, copyrights trademarks and trade secrets related to the Products or Proprietary Data. Termination of this Agreement shall not terminate any sublicenses validly granted hereunder prior to the effective date of termination of this Agreement to third parties who are not affiliates of Reseller provided the purchase price and/or royalty related thereto is or has been promptly paid.

6. WARRANTY

Vendor warrants the diskettes and related documentation containing the Software to be free from defects in materials and workmanship for a period of sixty (60) days from the date of purchase. Vendor warrants the Hardware to be free from defects in materials and

workmanship for a period of ninety (90) days from the date of purchase. Vendor will replace any such defective Products returned to Vendor during such warranty period. Replacement is the exclusive remedy for any such defects, and Vendor shall have no liability for any other damages.

IN NO EVENT SHALL VENDOR BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE OR HARDWARE OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF VENDOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, VENDOR'S ENTIRE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO \$3,000.

TO THE EXTENT ALLOWED BY LAW, VENDOR EXPRESSLY DISCLAIMS ALL EXPRESS WARRANTIES NOT STATED HERE AND ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, WITH REGARD TO THE SOFTWARE AND HARDWARE, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES.

Reseller agrees to limit its warranty to its sublicensees so as not to increase Vendor's liability beyond that set forth herein and indemnifies and holds harmless Vendor from any claim or liability except as expressly set forth in this Agreement.

7. TRADE NAMES, TRADEMARKS, MARKINGS.

- a. Vendor. Reseller may use the Vendor name and display Vendor trademarks solely to identify and market Products only (i) to indicate on stationery and business cards that Reseller is an authorized distributor of Products, and (ii) on marketing materials approved by Vendor. No other use of the Vendor name or trademarks is authorized without the express written consent of Vendor. Reseller shall not alter or remove any human or machine readable trade name, trademark or other identification marks, symbols or labels from Products.
- b. "OrbitNet". Reseller acknowledges that: "OrbitNet," "The Ultimate Internet Sharing Solution," "Powering Internet Management," "OrbitNet," "AVStripper," "AccessNow" are trademarks of Vendor and all right, title and interest therein are, and shall at all times remain, the sole and exclusive property of Vendor. Reseller shall not use such names except in connection with the marketing of Products. No rights in such names are granted by this Agreement, except as expressly set forth herein.
- c. Markings. Reseller agrees to legibly acknowledge on each Product and documentation related thereto, that such Product includes a legend substantially similar to:

"OrbitNet ®, is a registered trademark of Orbit Communication Corp."

"The Ultimate Internet Sharing Solution," "Powering Internet Management," "OrbitNet," "AVStripper," "AccessNow" are trademarks of Orbit Communication Corp.

- d. Copyright Reseller acknowledges that Vendor is the sole and exclusive owner of the copyright to the Software Products. Reseller acknowledges that Vendor is the sole and exclusive owner of the copyrights and Patents on the Hardware Products. Reseller shall maintain Vendor's copyright notices and trademark notices on all Vendor Products and will not alter, erase, deface, or overprint any such notice on anything provided by Vendor.

8. CONFIDENTIALITY.

Reseller acknowledges that the Products and Proprietary Data, and the concepts embodied therein, are and shall remain the proprietary property of Vendor; and Reseller agrees that Reseller, its sublicensees and its customers, shall neither have nor acquire any proprietary interest or other right to such software other than the right to use granted hereby. Under no circumstances shall Reseller decompile, or permit others to decompile, the object code portion of the Products to a Source Code version.

Reseller agrees not to use the Products and Proprietary Data except in accordance with the terms of this Agreement and the End User License Agreement included with each Product. Further, Reseller agrees to protect the proprietary information contained in the Product and Proprietary Data to the same extent that Reseller protects its own confidential or proprietary information. Reseller further agrees that it will require all of its customers who license Products to agree to the terms of Vendor's End User License Agreement (EULA).

9. GENERAL.

This Agreement may not be changed orally by either party. This agreement shall be governed by and construed in accordance with the laws of the State of California without reference to the choice of law provisions thereof. All aspects of all actions brought relating to the subject matter of this Agreement shall be governed by California law, without reference to the choice of law provisions thereof. Any dispute that arises under or relates to this Agreement (whether contract, tort, or both) shall be resolved in the State of California in the Superior Court of the County of Alameda or the United States District Court in San Francisco, California.

The parties hereby agree to submit to the jurisdiction of the aforementioned court should a dispute arise under this agreement. No remedy made available under this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given or now or hereafter existing at law or in equity or by statute or otherwise.

Each party will bear their own costs, expenses and attorneys' fees arising out of and/or connected with any disputes and all matters arising out of or connected therewith except that, in the event any action is brought by any party to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled. This Agreement shall be binding upon and inure to the benefit of the parties to the Action and their respective heirs, executors, administrators, trustors, trustees, beneficiaries, members, predecessors, successors, assigns, partners, partnerships, parent, subsidiary, affiliated and related entities, officers, directors, principals, agents, servants, employees, representatives, and all persons, firms, associations and/or corporations connected with them, including, without limitation, their insurers, sureties and/or attorneys. If any provision or any part of any provisions of this

Agreement is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of this Agreement shall not be affected thereby and shall remain valid and fully enforceable.

This Agreement shall not be assigned by either party without the prior written consent of the other party. No failure of either Party to exercise or enforce any of its rights under this Agreement shall act as a waiver of subsequent breaches; and the waiver of any breach shall not act as a waiver of subsequent breaches. The Parties acknowledge that they have read this entire Agreement, and that this Agreement constitutes the entire understanding and contract between the parties and supersedes any and all prior or contemporaneous oral and written communications regarding the subject matter, all of which communications are merged herein. The section and subsection headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof.

No provisions in either party's purchase orders, or in any other business forms employed by either party, will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No representations or statements of any kind made by either party that are not expressly stated herein shall be binding on such party. The indemnification and confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission. Such facsimile signature shall be treated in all respects as having the same effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first written hereunder.

Vendor:

RESELLER:

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Program Level	Minimum Initial Order	Annual Obligation	Products
OrbitNet Software Reseller	Minimum 10 Software Units	\$5,000	OrbitNet 4.0 -all versions 3,5,10,25, and unlimited user. AntiVirus Subscriptions Site Filtering Subscriptions

Reseller initials _____ Vendor initials _____

EXHIBIT B
OrbitNet Partner Plus Program Overview

Company Overview

Orbit Software develops, markets, and supports security, management and Internet access technologies. The OrbitNet line of secure firewall proxy servers, Internet access products and virus control devices provide users with the ability to connect, manage and secure their networks.

Program Overview

The objective of the Orbit Partner Plus Program is to help partners create a profitable business model in a dynamic market where customers require value-added services, focused technical expertise, and higher levels of satisfaction. By teaming with Orbit Communication Corp., you will be able to differentiate your business, build higher levels of customer satisfaction and make a healthy profit.

The Partner Plus program is divided into two parts: Software Only and Hardware and Software. Orbit offers a program allowing many different types of VAR's to participate, from those that sell into the SOHO Market to those selling into the Enterprise Market. We have a variety of programs to fit your needs and we will help you implement a program that will allow you to succeed.

Basic Benefits:

All partners receive the following basic benefits Marketing Tool kit, Demo Disks, Access to the Help Desk, Spec. Sheets, Use of the OrbitNet Logo, Access to Online knowledge, NFR copy of the Software, Orbit Channel e-Bulletin, and Online ordering after selling just 12 copies of OrbitNet.

Software Only

OrbitNet Software Reseller

This is the introductory level in the Orbit Partner Plus Program. To start your participation you will only have to purchase 4 units of OrbitNet Software and commit your company to learning and selling the products that you buy from us.

All partners get the following cumulative software discounts:

10 units 20% Discount

50-100 units 30% Discount

100+ units 35% Discount

Once you have achieved the 12+ discount level you will always receive a 35% discount on all software products regardless of the number of units on the order.

Products: OrbitNet, Site Filtering and Virus Protection. The OrbitNet Software Reseller will also have the ability to sell any of the future SOHO software product lines.

Requirements: Knowledge of Internet connectivity, networking and security. Orbit partner logo listed on website.

Commitment: The minimum annual dollar purchase requirement is \$2,500 per year.

OrbitNet Premier Software Reseller

is the highest of the Software only levels in the Partner Plus program and the stepping stone to selling Orbit' hardware products.

Products: OrbitNet, Site Filtering and Virus Protection. The TNet Software Reseller will have the ability to sell any of the future SOHO and Enterprise software product lines.

Additional Support Includes: Priority Tech Support• 5% Co-Op Advertising Support• Priority Software Product Delivery• Ability to Sell Serial Numbers Directly• Education/Government Discounts• Priority Software Product Delivery• Special Quantity Pricing •Website Listing on OrbitNet Partner Page•

Commitment: The minimum annual dollar purchase requirement is \$10,000 per year, should a **Premier Software Reseller** make \$15,000 in purchases they would have the ability to participate in our hardware VAR program.

Hardware and Software

The Hardware and Software VAR can sell both types of products and this part of the Partner Plus Program is broken down into 3 levels. They are as follows Gold, Platinum and Premier.

GOLD PARTNER

A **Gold Partner** will be the entry level for purchasing OrbitNet Hardware solutions. With a small investment of time the rewards for purchasing are large and the ability to sell world class products is at your finger tips.

Products: OrbitNet, Site Filtering, Virus Protection subscriptions, AccessNow VBN, AccessNow Firewall, and AVStripper. The OrbitNet Hardware / Software Reseller will have the ability to sell any of the future SOHO software product lines.

Support: Level is the same as the OrbitNet Premier Software Reseller with the ability to sell hardware and a generous discount.

Pricing:

Hardware

15% discount on one to 3 units

20% discount on 4 units or more ordered at the same time for immediate shipment.

Commitment: The initial purchase to qualify for the program is \$2500. The minimum annual dollar purchase requirement is \$15,000 per year, should the reseller make \$45,000 in purchases they would be eligible to participate in the Platinum hardware program.

PLATINUM PARTNER

A **Platinum Partner** will be the midlevel distribution partner for the OrbitNet Hardware solution.

Products: OrbitNet, Site Filtering, Virus Protection Access Now VBN Access Now Firewall and AV Stripper. The OrbitNet Hardware / Software Reseller will have the ability to sell any of the future SOHO and Enterprise software product lines.

Additional Support: These Partners will also receive the above benefits as well as High Discount Level • Priority Product Delivery for Software and Hardware • Special Quantity Pricing for Hardware • Receive Distribution of Leads • Terms upon credit approval

Pricing:

Hardware

20% discount on one to 3 units

25% discount on 4 units or more ordered at the same time for immediate shipment.

Commitment: The initial purchase to qualify for the program is \$5000. The minimum annual dollar purchase requirement is \$50,000 per year, should the reseller make \$95,000 in purchases they would have the ability to participate in the Premier Partner hardware program.

PREMIER PARTNER

A **Premier Partner** will be the highest volume distribution partner for the OrbitNet Hardware solution.

Products: OrbitNet, Site Filtering, Virus Protection Access Now VBN Access Now Firewall and AV Stripper. The OrbitNet Hardware / Software Reseller will have the ability to sell any of the future Enterprise software product lines.

Additional Support: All of the above support benefits as well as Highest Level Discount • In House Training • Premier Placement on OrbitNet Website • Special Demo Unit Pricing

Pricing: The discount structure for software will remain the same for all resellers of software. The hardware structure will change depending on the number of units ordered.

Hardware

25% discount on one to 3 units

30% discount on 4 units or more ordered at the same time for immediate shipment.

Commitment: The initial purchase to qualify for the program is \$15,000. The minimum annual dollar purchase requirement is \$100,000 per year.