



## RESELLER AGREEMENT

Effective Date: July 1, 2009

Between:

and:

**Compuware Corporation ("Compuware")**  
One Campus Martius  
Detroit, MI 48226  
United States of America

**En Pointe Technologies Sales, Inc.**  
18701 S. Figueroa Street  
Gardena, California 90248

**Attention: General Counsel**  
**Phone: 313-227-7300**  
**Fax: 313-227-9567**

**Attention: Chief Financial Officer**  
**Phone: 310-337-5200**  
**Fax: < >**

### WHEREAS:

- (a) Compuware is in the business, among other things, of developing computer software;
- (b) Reseller is in the business of marketing computer software in the Territory; and
- (c) Reseller desires to act as Compuware's non-exclusive marketing representative for the Compuware Software in the Territory on the terms and conditions of this Agreement.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants contained herein the parties mutually agree as follows:

### ARTICLE 1- INTERPRETATION

- 1.1 Definitions.** Whenever used in this Agreement or any schedule hereto, words and phrases defined in this Agreement shall have the meanings ascribed to them therein, and the following words and terms shall have the respective meanings ascribed to them as follows:
- (a) **"Affiliate(s)"** means with respect to any entity, any other entity directly or indirectly controlling, controlled by, or under common control of such entity. "Control" means the legal ownership, directly or indirectly, of more than 50% of all voting interests or assets in such entity.
  - (b) **"Compuware Software"** means: 1) the most current commercial release of the Compuware proprietary software in machine readable object code form described in Exhibit A; 2) new releases, versions and updates to the foregoing; and 3) the Documentation.
  - (c) **"Customer"** means an entity that enters into a Customer License Agreement with Compuware granting a license to use the Compuware Software.
  - (d) **"Documentation"** means user documentation generally furnished by Compuware to Customers in conjunction with the Compuware Software.
  - (e) **"Intellectual Property Rights"** means all intellectual and industrial property rights and includes, but is not limited to, rights to (i) patents, (ii) copyrights, (iv) trade-marks, service marks and similar rights, (v) know-how, trade secrets and confidential information, and (vii) other proprietary rights.
  - (f) **"Invoice"** means the bill provided to Reseller for Compuware Software to be sold via resale to Customer. This price is not inclusive of any taxes or any additional applicable charges.
  - (g) **"Maintenance Service"** means the support service generally offered by Compuware to Customers in respect of the Compuware Software.
  - (h) **"Quote"** means the price provided to Reseller for Compuware Software to be sold via resale to Customer. This price is not inclusive of any taxes and/or any additional applicable charges.
  - (i) **"Registration"** means Reseller providing to Compuware the names, addresses and such other pertinent business information for each Sales Prospect from which Reseller is intending to solicit orders.
  - (j) **"Sales Prospect"** shall be a potential customer within the Territory, except for those outlined in this Agreement or any Exhibit.
  - (k) **"Taxes"** means all taxes, including sales, use, goods and services, occupational, levies, assessments, tariffs, duties and other taxes, now in force or enacted in the future, except for such taxes as are imposed on Compuware's income.
  - (l) **"Territory"** means the geographic territory and/or vertical market segment set out in Exhibit A.

## **ARTICLE 2- APPOINTMENT OF RESELLER**

- 2.1 **Appointment of Reseller.** Subject to the provisions of this Agreement, Compuware hereby appoints Reseller as one of its non-exclusive Resellers of licenses of Compuware Software in the Territory, and Reseller agrees to act in that capacity and provide such services. Reseller will use its best efforts throughout the Territory to promote, solicit and obtain orders for the Compuware Software. Reseller represents that it possesses the experience, skills and resources required to carry out these marketing and service activities.
- 2.2 **Exclusions.** Notwithstanding any other provision of the Agreement this appointment is strictly limited to the resale of Compuware Software licenses. Without limiting the foregoing, this Agreement does not contemplate, and Reseller is not authorized to engage in, the resale of Compuware Maintenance Service or subscriptions. The parties acknowledge and agree that consulting services may be resold under the terms of this Agreement only upon the signed written agreement of each party.
- 2.3 **Quotas.** Reseller will obtain orders under: 1) Compuware's Shrink-Wrap License Agreement; or 2) Compuware's Customer License Agreement executed with Customers within the Territory. Such Reseller activities shall generate aggregate revenues for Compuware at least equal to the applicable quotas as set forth in Exhibit B. Such quotas may, in the sole discretion of Compuware, be modified annually upon written notice. Notwithstanding the use of the term "quota" as used herein or in Exhibit B nothing shall require Reseller to purchase any minimum quantities.
- 2.4 **Reference Site.** Reseller agrees to be a reference site for Compuware and/or its affiliates. Upon prior notification and at mutually agreed upon times, Reseller shall provide interested parties referred by Compuware with information regarding Reseller's use of the Product. Such information may be provided via telephone conversations with, or site visits by, the interested parties.
- 2.5 **Business Plan.** The parties may agree, as to business plans in furtherance of the marketing and sale of Compuware products.
- 2.6 **Records and Reports.** Reseller will maintain accurate records of its marketing and service specifically related to transactions arising out of this agreement, including (i) a current list of its Customers to whom Compuware products were sold.
- 2.7 **Services Outside of Territory.** Reseller agrees not to market any Compuware Software (or attempt to do the foregoing), outside of the Territory, unless otherwise agreed to in writing by Compuware.
- 2.8 **Reservation of Rights.** Compuware reserves the right to market, license, sub-license, distribute, sell, Resell, Implement, and maintain the Compuware Software in the Territory, either directly to Customers or other third parties, or indirectly such as through systems integrators, Resellers, distributors, distribution channels, and other third parties.
- 2.9 **Distribution License.** Subject to the terms and conditions of this Amendment, Compuware grants to Reseller a non-exclusive, non-transferable personal license to resell the Compuware Software to Customers in the Territory.
- 2.10 **Marketing of Compuware Software.** During the term of this Agreement Compuware agrees to make available to Reseller, marketing materials related to the Compuware Software that are generally made available to other Resellers of Compuware. Reseller agrees to obtain Compuware's prior written approval for all advertising and promotional materials that Reseller may create pertaining to the Compuware Software. Without limiting the foregoing, all uses of Compuware trade marks or logos must be pre-approved in writing by Compuware. Reseller shall strictly comply with any usage guidelines and proprietary legends which may be provided to Reseller by Compuware from time to time, including instructions regarding notices and legends on Compuware Software, packaging, advertising, sales and promotional materials. All trademarks, service marks, trade names, logos or other words or symbols identifying the Compuware Software or Compuware' business (the "Marks") are and will remain the exclusive property of Compuware. Reseller will not acquire any right in the Marks, except the limited use rights specified in this Agreement.
- 2.11 **Demonstration License.** Subject to the terms and conditions of this Agreement, Compuware grants to Reseller and Reseller accepts from Compuware a personal, non-exclusive and non-transferable license for the Demonstration License Software listed in Exhibit A (the "**Demonstration License**"). The Demonstration License grant is strictly limited to the following purposes: to demonstrate the use of the Compuware Software to potential customers (herein "**Prospects**") and conduct pre-sales activities in connection with Reseller's marketing activities for Compuware; to evaluate the Compuware Software by Reseller in able to understand the functionality of the Compuware Software and to judge the applicability of the Compuware Software in relation to potential Prospects; and to train Reseller employees on the Compuware Software. Reseller may not, without Compuware's prior written consent, install a copy of the Compuware Software on any computers that are not owned or in the possession of any Reseller. Furthermore, Reseller may not use the Compuware Software for the following purposes: for the internal benefit of Reseller, other than as expressly permitted herein, to distribute any output derived from Compuware Software to any Third Parties (outside of limited pre-sales marketing activities); and for any revenue-generating initiatives resulting from the use of Compuware Software (i.e., consulting, software development or maintenance etc.).
- 2.12 **Restrictions on Licenses.** Reseller agrees that it shall not, nor will it permit or facilitate any other person to, (i) use, copy, reproduce, distribute, sell, license, sub-license, transfer or otherwise allow access to all or any part of the computer programs, code or data, stored or embodied in the Compuware Software; (ii) modify, translate, convert, adapt, create derivative works based upon or derived from, duplicate, correct, enhance, maintain, update, rent, repack, or remanufacture the Compuware Software or any part thereof; or (iii) disassemble, de-compile, translate or convert into human readable form or into another computer language, reconstruct or decrypt, reverse engineer, or otherwise attempt to derive source code from all or any part of the Compuware Software. Neither Reseller nor its Customers shall have any access to or rights in the source code of the Compuware Software under this Agreement.

Further, no license is given to Reseller and Reseller agrees it will not use the Compuware Software to provide any outsourcing, hosting, timesharing or application service provider (ASP) services.

- 2.13 Change in Compuware Software.** Compuware reserves the right, in its absolute discretion, to change the specifications and to make enhancements and modifications to the Compuware Software and to discontinue, terminate or limit deliveries of the Compuware Software, provided that Compuware agrees to give thirty (30) days prior written notice thereof to Reseller.

### **ARTICLE 3– CUSTOMER SERVICES**

- 3.1 Customer Service Reporting.** Reseller will provide Compuware Customer feedback relating to the Compuware Software.
- 3.2 Provision of Services by Compuware.** Compuware agrees to provide Reseller with the training required to market the Compuware Software. Compuware shall provide training at no charge to Reseller; Reseller shall be responsible for all costs incurred in connection with such training, including all travel, hotel and other out of pocket expenses. Availability and details will be provided in accordance with Compuware's then-current policies.

### **ARTICLE 4 – CONTRACTING WITH CUSTOMERS**

- 4.1 Acceptance.** Compuware may accept or reject any Reseller order at its discretion.
- 4.2 Customer License Agreement.** Reseller is prohibited from negotiating or contracting customized licenses with Customers for the Compuware Software. Compuware Software is sold subject to the Licensing Agreement provided with the Software.

### **ARTICLE 5– PRICE AND PAYMENT TERMS**

- 5.1 Payment and Sales Margin.**
- (a) Reseller agrees to pay Compuware all amounts specified on the applicable Invoice. Reseller is responsible for payment of all Taxes and for obtaining and providing to Compuware any certificate of exemption or similar document required to exempt any sale from sales, use, or similar tax liability.
- (b) Reseller is entitled to retain the difference between the Compuware Invoice price and the price charged to the Customer for Compuware Software ("Sales Margin"). The Sales Margin shall be Reseller's sole remuneration from Compuware for the resale of the Compuware Software. All other fees payable under Customer License Agreements shall be paid directly to Compuware by Customers.
- (c) All amounts payable by Reseller shall be paid to Compuware within thirty (30) days upon Reseller's receipt of the Compuware Invoice. In the event any payment by Reseller is not made when due and payable pursuant to this Agreement, interest on any undisputed unpaid amount shall accrue at the rate of one and one-half per cent (1.5%) per month.
- 5.2 Prices.** The discounts at which Reseller may acquire licenses for Compuware Software for the purposes of resale to Customers, including first year Maintenance Service, are specified in Exhibit A. Compuware may change the discounts specified in Exhibit A, in whole or in part, at any time upon 30 days' prior notice to Reseller. Reseller will be solely responsible for obtaining payment from its Customers. Delays or failures in obtaining such payments will not affect Reseller's obligation to make payments to Compuware.

### **ARTICLE 6– PURCHASE ORDERS AND DELIVERY**

- 6.1 Reseller's Orders.** Reseller's orders for Compuware Software shall be governed by the terms of this Agreement and the Customer License Agreement, and nothing contained in any purchase order or other document shall in any way modify, vary, change, or add any term or condition hereto.
- 6.2 Delivery.**
- (a) Compuware shall endeavour to quote delivery dates to fill orders submitted by Reseller and to deliver Compuware Software ordered in the time frames specified, but shall have no liability to Reseller for any failure to do so.
- (b) Compuware shall deliver to Customers the appropriate license keys to enable Customers to use the Compuware Software. For greater certainty, all Compuware Software shall be delivered by Compuware to Customers and not by Reseller.

### **ARTICLE 7– RESALE TRANSACTION FLOW**

- 7.1 Resale Transaction Flow.**
- (a) The following comprises the resale transaction required to convey the Compuware Software licenses to the Customers under the terms of this Agreement ("Completed Transaction"):
- (i) Reseller provides Compuware with Registration Information.
  - (ii) As a direct result of Reseller's activities as contemplated by this Agreement, the Customer agrees to license the Compuware Software.
  - (iii) The Reseller requests a quote from Compuware for the price of the Compuware Software licenses to be paid by Reseller to Compuware.
  - (iv) If Compuware, in its sole discretion, accepts the Registration Information then the quote requested in (iii) above shall be delivered to Reseller.
  - (v) A purchase order is issued by Reseller to Compuware for the Compuware Software to be licensed to the Customer. The purchase order will reflect the prices obtained in (iii) above, and include the following language:  
"En Pointe Technologies Sales, Inc. is submitting this purchase order to Compuware with the intent that the software products indicated above be shipped directly to **(Customer Name)**, at **(Customer Address)**, for use by **(Customer Name)**, in accordance with the Shrink-Wrap Agreement packaged with the software products."

- (vi) If the purchase order is accepted by Compuware, Compuware will ship the required Compuware Software to the Customer.
- (vii) Compuware will invoice Reseller for the Compuware Software.
- (viii) Reseller will remit payment to Compuware, subject to the terms contained in this Agreement. The invoice will be based upon the purchase order, and include taxes as determined by Compuware.
- (b) Under no circumstances shall payment of the invoice in (a) above be contingent upon payment to Reseller by the Customer.
- (c) Address to which purchase order shall be sent by Reseller:

**Compuware Corporation**  
**Attn: North America Contract Management**  
**One Campus Martius**  
**Detroit, MI 48226**

#### **ARTICLE 8- OWNERSHIP AND CONFIDENTIALITY**

- 8.1 Ownership.** Reseller acknowledges and agrees that nothing herein transfers or conveys to Reseller any right, title, or interest to any Intellectual Property Rights in or to any Compuware Software. All patents, copyrights, trade secrets and other proprietary rights in or related to the Compuware Software are and will remain the exclusive property of Compuware. Compuware will own all rights in any copy, translation, modification, or derivation of the Compuware Software. Compuware shall have the right to immediately terminate this Agreement in the event Reseller disputes or contests, directly or indirectly, the validity, ownership or enforceability of any Intellectual Property Right of Compuware or its licensors.
- 8.2 Removal of Proprietary Marks.** Reseller agrees not to remove, alter, cover or obfuscate any proprietary notice, including any copyright, patent, trade mark or trade secret notice or legend on the Software.
- 8.3 Confidentiality Obligations.** Either party or its Affiliates may from time to time provide either orally or in writing or other tangible or material form, the other party or its Affiliates with information of a confidential nature including, but not limited to, strategic, technical and financial information relating to the business of the parties, customers, or the Compuware Software (the "**Confidential Information**"). The parties agree that the Compuware Software is held by Compuware as a trade secret and is Confidential Information of Compuware or its licensors. The parties agree to maintain the confidentiality of the Confidential Information of the other party and its Affiliates and not to use or disclose such Confidential Information except in the performance of this Agreement. Both parties agree to maintain in confidence the contents of this Agreement, including without limitation, all commissions, prices, discounts and other information of a financial nature related to the Compuware Software. Notwithstanding the foregoing, Confidential Information shall not include information that is in or which falls into the public domain other than through the fault of a party, or information that is rightfully obtained from a third party who has the right to disclose such information.
- 8.4 Enforcement of Confidentiality Obligation.** Each party acknowledges and agrees that irreparable injury may result to the other party if it breaches any of the provisions in this Article and that damages may be an inadequate remedy in respect of such breach. The parties agree that, in the event of such breach, that the non-breaching party shall be entitled, in addition to such other remedies, damages and relief as may be available at law or in equity.

#### **ARTICLE 9- REPRESENTATIONS, WARRANTIES AND COVENANTS**

- 9.1 Representations, Warranties and Covenants of Reseller.** Each party represents, warrants and covenants that:
  - (a) it has the right and power to enter into and fully perform this Agreement and in entering and performing this Agreement it will not be in breach of any contractual or other obligation to any third party;
  - (b) no registration with or approval, consent or authorization of any government, department, ministry, agency, commission or other body or entity in the Territory is necessary for the execution, delivery or performance of any of the terms of this Agreement;
  - (c) it will conduct its business in a professional manner that will reflect favourably on the good name and reputation of the other party;
  - (d) it will comply with all applicable national, international and local laws, ordinances, and regulations in performing its obligations under this Agreement and it will refrain from engaging in any unfair, or deceptive trade practice, or unethical business practice whatever, or practice that could unfavourably reflect upon the other party;
  - (e) it shall devote sufficient financial resources and technically qualified sales and service personnel to the Compuware Software to fulfil its responsibilities under this.; and
  - (f) it shall not make any representations or warranties about the Compuware Software to third parties, including Customers or Prospects which are not set forth in the Documentation or marketing or training materials provided by Compuware intended for distribution to Customers.
- 9.2 Indemnity.**  
Each party agrees to indemnify and hold the other party and its Affiliates and their officers, directors, employees and agents harmless from and against any and all claims, damages, liabilities, costs and expenses including legal expenses and reasonable counsel fees arising from any breach by a party of any representation, warranty, covenant, provision or agreement made by such party in this Agreement.

#### **ARTICLE 10- DISCLAIMERS AND LIMITATIONS OF LIABILITY**

- 10.1 Limited Warranty.**

- (a) Compuware warrants (the "Warranty") that (i) for, a period of ninety (90) after delivery, the Compuware Software shall: 1) substantially conform to the description thereof in the Documentation; and (ii) be free from defects in materials and workmanship in the media upon which Compuware Software and Documentation are provided.
- (b) Reseller's exclusive remedy and Compuware's sole obligation with respect to the breach of the foregoing remedy reported to Compuware during the warranty period is for Compuware to (i) correct or have corrected or to provide Reseller with a workaround for the failure of the Compuware Software to conform substantially to the description thereof in the Documentation and (ii) provide Reseller with replacement media in the event there are defects in materials or workmanship in the media upon which Compuware Software and Documentation are provided; and if any of the foregoing are not possible, then to refund to Reseller the amount Reseller has paid for the subject Software.

## **10.2 Disclaimers.**

- (a) **IT IS UNDERSTOOD THAT THE COMPUWARE SOFTWARE PROVIDED FOR USE UNDER THE DEMONSTRATION LICENSE IS PROVIDED FOR THE PURPOSES SET FORTH HEREIN AND ACCORDINGLY COMPUWARE MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING ITS USE. THE COMPUWARE SOFTWARE PROVIDED OR USED FOR SUCH PURPOSES IS MADE AVAILABLE TO RESELLER ON AN "AS IS" BASIS.**
- (b) **COMPUWARE CANNOT AND DOES NOT WARRANT THAT THE COMPUWARE SOFTWARE WILL OPERATE WITHOUT INTERRUPTION OR THAT IT WILL BE ERROR-FREE. EXCEPT AS PROVIDED HEREUNDER, COMPUWARE EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- (c) **IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR LOST PROFITS, FAILURE TO REALIZE EXPECTED SAVINGS, INABILITY TO USE ANY COMPUTER PROGRAM, LOSS OF DATA, OR FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGE EVEN IF A PARTY HAS BEEN ADVISED OF OR FORESEES A POSSIBILITY OF, ANY OF THESE DAMAGES OCCURRING.**
- (d) **COMPUWARE'S MAXIMUM LIABILITY TO RESELLER UNDER OR RELATED TO THIS AGREEMENT SHALL IN NO EVENT EXCEED THE LICENSE FEES PAID BY RESELLER TO COMPUWARE WITH RESPECT TO THE COMPUWARE SOFTWARE THAT IS THE SUBJECT OF THE CLAIM.**

## **ARTICLE 11- INTELLECTUAL PROPERTY RIGHT INFRINGEMENT**

- 11.1 Infringement Claims.** Reseller shall promptly bring to the attention of Compuware any threatened infringement or violation of any Intellectual Property Right in the Compuware Software (an "Infringement") which comes to its attention and shall assist Compuware and licensors of Compuware, at Compuware's expense, in taking all necessary steps to enforce, defend and protect such rights. In the event that there is an Infringement of any Intellectual Property Right in the Compuware Software, Compuware or its licensors shall decide in its absolute discretion whether and what steps should be taken to prevent or terminate such Infringement including the institution of legal proceedings where necessary and Compuware. Reseller shall provide such assistance including the furnishing of documents and information and the execution of all necessary documents to or conducting any legal proceedings as Compuware may reasonably request to protect and defend such rights.
- 11.2 Infringement Indemnity.**
  - (a) Compuware will defend or settle any action brought against Reseller to the extent that it is based on a claim that the use and marketing of the Compuware Software by Reseller within the scope and as authorized by this Agreement. Compuware will indemnify Reseller from any costs and damages finally awarded against Reseller by a court of competent jurisdiction; provided that Reseller notifies Compuware promptly in writing of same; and provided further that Reseller permits Compuware or licensors of Compuware to defend or settle the claim and provides all available information, assistance and authority to enable Compuware to do so. Compuware shall not be liable to reimburse Reseller for any settlement made by Reseller without Compuware's prior written consent, or for any legal fees or expenses incurred by Reseller in connection with such claim. Reseller shall have no authority to settle any claim on behalf of Compuware.
  - (b) Should the Compuware Software become or in Compuware's sole opinion be likely to become the subject of a claim of infringement or violation of any Intellectual Property Right (an "Infringement Claim") Compuware in its sole discretion may (i) procure for Reseller, at no cost to Reseller, the right to continue to market the Compuware Software which is the subject of the Infringement Claim, (ii) replace or modify the Compuware Software to make it non-infringing, or (iii) terminate the right of Reseller to continue to market the Compuware Software that is subject to the Infringement Claim.
  - (c) Compuware shall have no liability nor any obligation to indemnify Reseller for any Infringement Claim that is based on (i) the use or combination of the Compuware Software with software, hardware or any other product not provided or authorized by Compuware, (ii) any change, modification or enhancement to the Compuware Software by Reseller or use of the Compuware Software other than in a manner described in the Documentation or (iii) the use of other than the latest release or version of the Compuware Software if such infringement could have been avoided by the use thereof and the next release or version of the Compuware Software had been made available to Reseller.
  - (d) This section states the entire liability of Compuware and Reseller's sole remedies with respect to any claims that the Compuware Software infringes or violates any Intellectual Property Rights.

## **ARTICLE 12 - TERM AND TERMINATION**

- 12.1 Term.** Subject to the provisions of this Article, the term of this Agreement shall commence on the Effective Date and shall continue until terminated by the terms specified in this Article 12.
- 12.2 Termination for Convenience.** This Agreement may be terminated for any reason, with or without cause, and without penalty or recourse, at any time by either party upon thirty (30) days written notice to the other party. Both parties

agree that neither shall be liable to the other for damages of any kind or for any other relief that may be sought by reason of such termination.

- 12.3 Termination for Cause.** Either party may terminate this Agreement immediately upon written notice to the other in the event that a party materially fails to perform any obligation, duty or responsibility imposed under this Agreement and fails to cure such default within thirty (30) days of receiving notice of such failure. Any such termination shall be without prejudice to such other rights and remedies as may be available to the non-breaching party under this Agreement.
- 12.4 Effect of Termination.** Upon the termination of this Agreement for any reason:
- (a) the appointment of Reseller shall automatically be revoked and Reseller shall cease all marketing of the Compuware Software;
  - (b) all licenses granted to Reseller herein shall terminate and Reseller shall immediately return all copies of the Compuware Software in its custody.
  - (c) Reseller shall pay to Compuware all due and undisputed amounts, as well as any amount that has accrued but not yet become due, the due date of which will be automatically accelerated to the date of expiration or termination of this Agreement.
- 12.5 Survival.** The parties agree that the provisions hereof requiring performance or fulfillment after the termination of this Agreement shall survive such termination.

#### **ARTICLE 13- GENERAL**

- 13.1 Publicity.** Reseller and Compuware may jointly develop a press release or similar statement, mutually acceptable to both parties, both as to form and content, describing the existence of the relationship contemplated by this Agreement and the scope of their respective activities. Any press releases or public announcements shall require the prior written approval of such other party.
- 13.2 Assignment.** Neither this Agreement nor any rights or licenses granted hereby may be assigned by Reseller voluntarily or by operation of law without Compuware's prior written consent, and any such attempted assignment shall be null and void. Either party may assign this Agreement in connection with a sale, merger, or transfer of all or substantially all of a party's assets. Should the other party object to such an assignment, such party may terminate this Agreement pursuant to its terms with respect to termination.
- 13.3 Relationship between the Parties.** Nothing contained in this Agreement shall be construed to give either party the power to direct or control the day-to-day activities of the other. Compuware and Reseller are independent persons and nothing herein shall be construed to create any joint venture, agency or other similar relationship.
- 13.4 U.S. Export Restrictions.** Reseller acknowledges that the Software is subject to the provisions of the U.S. Export Administration regulations (15 CFR). Diversion, publication, resale or re-export without prior authorization is prohibited. Reseller shall not export or re-export the Software to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo controls as specified in the U.S. export regulations. Reseller shall not use or provide the Software for nuclear, chemical or biological weaponry.
- 13.5 Force Majeure.** Neither party will be liable for any failure or delay in performing an obligation under this Agreement that is due to causes beyond its reasonable control, such as natural catastrophes, governmental acts or omissions, laws or regulations, labor strikes or difficulties, transportation stoppages or slowdowns or the inability to procure parts or materials. These causes will not excuse Reseller from paying accrued amounts due to Compuware. If any of these causes continue to prevent or delay performance for more than 90 days, Compuware may terminate this Agreement, effective immediately upon notice to Reseller.
- 13.6 Amendments and Waiver.** No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by the parties hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party.
- 13.7 Notices.** For the purposes of this Agreement and for all notices and correspondence hereunder, the addresses of the respective parties have been set out at the beginning of this Agreement. If a party changes its address for notification purposes, then it shall give the other party written notice of the new address and the date on which it shall become effective. All notices shall be effective when personally delivered, delivered by certified U.S. mail (return receipt requested) or by nationally recognized courier. Proof of notice shall be the applicable personal, postal, or courier proof-of-delivery documentation. Communications of a purely technical or operational nature may be made by such means as the parties agree, from time to time.
- 13.8 Severability.** Notwithstanding anything to the contrary in this Agreement, all provisions of this Agreement are hereby limited to the extent mandated by applicable law. To the extent that any provision or portion is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, to that extent, such portion or provision shall be severed and deleted from the remaining provisions of this Agreement. The invalidity or unenforceability of any provision hereof shall in no way affect or impair the validity or enforceability of the remaining provisions.
- 13.9 Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.
- 13.10 Entire Agreement.** This Agreement, and any Exhibits attached hereto, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understandings and agreements between the parties hereto with respect thereto. There are no representations, warranties, terms, conditions, undertakings, licenses granted, or collateral agreements, expressed, implied or statutory, between the parties other than as expressly set forth in this Agreement.

BOTH PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT AND ALL ATTACHED EXHIBITS, AND THAT THEY ARE NOT ENTERING INTO THIS AGREEMENT ON THE BASIS OF ANY REPRESENTATIONS NOT EXPRESSLY SET FORTH HEREIN. THIS AGREEMENT IS BINDING UPON EXECUTION BY AN AUTHORIZED REPRESENTATIVE OF PARTNER AND ACCEPTANCE BY AN AUTHORIZED REPRESENTATIVE OF COMPUWARE, AND MAY ONLY BE ALTERED BY A WRITTEN AGREEMENT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF EACH PARTY.

Compuware Corporation

Authorized Signature

KIMBERLY KING

Name

VP of Strategic Alliances

Title

July 27, 2009

Date

En Pointe Technologies Sales, Inc.

Authorized Signature

<> DR. SHAHZAD MUNAWWAR

Name

<> CIO

Title

<> 8/19/09

Date

## EXHIBIT A

1. **Territory:** USA and Canada excluding Federal Government Business.
2. **Software/Discounts:** The following discounts shall be effective through **June 30, 2010** or earlier if changed in the sole discretion of Compuware upon thirty (30) days written notice to Reseller.

Software	Percentage Discount Off Of Compuware's Then Current List
DISTRIBUTED PRODUCTS	25%

3. **Demonstration License Software**

Client Number: < >

License Period: < >

Software	Copies Provided	Location	Primary Contact
< >	< >	< >	< >
< >	< >	< >	< >
< >	< >	< >	< >

## **EXHIBIT B**

Reseller shall have no quarterly or annual quotas. Notwithstanding the use of the term "quota" Reseller is not obligated to purchase any minimum quantities.

Compuware and Reseller mutually agree to develop an activity-based business plan (the "Business Plan") every 12 months. The Business Plan will include; a market development plan, sales engagement plan, sales enablement plan and an understanding regarding technical training as appropriate regarding implementation of the Business Plan. Reseller and Compuware agree to jointly review and evaluate progress against the Business Plan on a quarterly basis.

**EXHIBIT C**  
**Sample Monthly Report**

Reseller: <Insert Reseller Name>  
Date: <Insert Date>

Customer Name	Software Product	Date of Sale	Qty.	List Price (Gross)	% Discount	Net Price (Net)

Total Sales (Gross) \$ \_\_\_\_\_

Total Sales (Net) \$ \_\_\_\_\_

**Certified by Reseller**

\_\_\_\_\_  
Authorized Signature

< > \_\_\_\_\_  
Name

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