

WYEBOT, INC.  
NON-EXCLUSIVE CHANNEL PARTNER AGREEMENT

This Wyebot Non-Exclusive Channel Partner Agreement (this “**Agreement**”) is entered into as of the date of Wyebot’s signature hereto (the “**Effective Date**”) by and between Wyebot, Inc., a Delaware corporation with a place of business at 2 Mount Royal Avenue, Suite 310, Marlborough, MA 01752 (“**Wyebot**”) and [REDACTED], a [REDACTED] corporation] with a primary place of business at (office address) [REDACTED] (“**Channel Partner**”). Each of Wyebot and Channel Partner may also be referred to as a “party” herein or together as the “parties.” In consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

**1. APPOINTMENT**

**1.1. Appointment of Channel Partner**

Upon acceptance of this Agreement by Wyebot, Wyebot hereby grants Channel Partner for the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable right and license to promote, market, and distribute the Wyebot hardware products, together with subscriptions for the associated Wyebot ‘software-as-a-service’ offering (collectively, “**Products**”) as designated on the Wyebot Partner Portal (“**Partner Portal**”), solely to End Users subject to the requirements of this Agreement and the Partner Portal. Channel Partner may only resell Products to End Users hereunder that it purchases from Wyebot hereunder.

**1.2. End Users**

An End User is an entity that acquires Products for use solely for such entity’s internal business purposes and not for sale, resale, sublicense, lease or any other form of distribution to, or use by or for, third parties.

**1.3. Products**

Wyebot may revise, add or delete Products upon written notice to Channel Partner. Wyebot does not represent that it shall continue to manufacture or provide any particular item or model of Product indefinitely or even for any specific period. Wyebot 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, providing or supporting it. Wyebot shall use commercially reasonable efforts to provide 90 days’ notification of any such changes. Channel Partner shall remove reference to such Product(s) from its website, marketing collateral, training, support and other internal and external facing vehicles and venues within thirty (30) days of being notified of the change.

**1.4. End User Agreement**

All sales of Products to End Users by Channel Partner, and use of such Products by such End Users, will be subject to the terms of a written agreement between Channel Partner and its End Users (the “**End**

**User Agreement**”). The End User Agreement will contain terms and conditions substantially similar to (and at least as protective of Wyebot and its intellectual property as, and at least as restrictive of the End User as) the terms and conditions of Wyebot’s then-current form Software-as-a-Service Agreement, located within the Partner Portal (the “**Wyebot SaaS Agreement**”). If the End User fails to agree to the End User Agreement, it shall have no right or authorization to use the Products, and in such case Wyebot shall not refund any fees paid under this Agreement. Channel Partner has no authority to bind Wyebot to any terms, or make any representation or warranty on behalf of Wyebot. Wyebot shall be an express third party beneficiary of the End User Agreement between the Channel Partner and the End User, and shall have the right and authority to enforce the terms of such Agreement. Channel Partner shall, upon Wyebot’s request and at Wyebot’s expense, take all actions reasonably requested to assist in such enforcement. Each End User Agreement shall automatically terminate upon the expiration or termination of this Agreement. Without limiting its obligations hereunder, Channel Partner hereby agrees to also comply with all restrictions and obligations in the Wyebot SaaS Agreement if it accesses or uses any Products, including on behalf of any End User.

### **1.5. Standards**

Channel Partner shall conduct business in a manner that reflects favorably at all times on the Products and the good name, goodwill, and reputation of Wyebot. Channel Partner shall avoid deceptive, misleading, or unethical practices that are or might be detrimental or disparaging to Wyebot or its Products. Channel Partner shall not publish or employ or cooperate in the publication or employment of any misleading or deceptive materials relating to the Products. Channel Partner shall make no covenants, representations, warranties or guarantees to End Users or to the trade with respect to the specifications, features, or capabilities of the Product which are inconsistent with the literature distributed by Channel Partner, or which are inconsistent with the then current Wyebot SaaS Agreement. Channel Partner will notify Wyebot immediately of any knowledge or suspicion of any violations of Wyebot’s patents, copyrights, trademarks, or other proprietary rights.

### **1.6. Proprietary Rights**

Channel Partner acknowledges and agrees that the Products and all other items provided hereunder and all copies thereof constitute valuable trade secrets of Wyebot, or are proprietary and Confidential Information of Wyebot, and title thereto remains in Wyebot. All applicable copyrights, trade secrets, patents and other intellectual property and proprietary rights in the Products and all other items provided hereunder are and remain in Wyebot. All other aspects of the Products and all other items provided hereunder, including without limitation, programs, methods of processing, and specific design of individual programs and their interaction and unique programming techniques employed therein as well as screen formats shall remain the sole and exclusive property of Wyebot and shall not be sold, revealed, disclosed or otherwise communicated, directly or indirectly, by Channel Partner, to any person, company or institution whatsoever other than for the purposes set forth herein. It is expressly understood that no title to or ownership of the Products, or any part thereof is hereby transferred to Channel Partner. Channel Partner shall not reverse engineer, decompile, disassemble or otherwise derive source code from the Products. All rights not expressly granted herein are reserved to Wyebot.

## 2. ADDITIONAL CHANNEL PARTNER PROGRAM RIGHTS AND OBLIGATIONS

### 2.1. Channel Partner Obligations & Restrictions

Channel Partner shall maintain a sales office which shall be opened and staffed during normal business hours and shall use its best efforts to promote, sell and support Products in the Territory to a standard comparable to other similar products sold by Channel Partner. Channel Partner shall devote sufficient resources, including support and competent and informed sales staff, to fulfill its obligations under this Agreement. Channel Partner shall, among other things, demonstrate the use and application of the Products and provide post-sale support, in accordance with Exhibit A hereof. Channel Partner shall make commercially reasonable efforts to include the Product in marketing and promotional programs that Channel Partner designs and manages either through their own marketing teams or through programs its End Users manage. Channel Partner shall not directly or indirectly market, distribute or sell the Products outside the Territory.

Channel Partner shall provide Wyebot with information it may reasonably request for all End Users, including company name and contact info (contact name, title, address, phone, email), subscription term, and any other information reasonably requested.

Channel Partner shall comply with the support obligations set forth in Exhibit A hereto. To this end, Wyebot may, from time to time, provide technical and sales training and product information.

Channel Partner shall handle and be responsible for all warranty claims and returns from its End Users. Channel Partner may make warranty claims in accordance with the warranty claims procedures set forth in Section 8. Channel Partner shall be liable for satisfaction of its End Users for all claims, damages, settlements, expenses and attorneys' fees incurred by Wyebot with respect to any claims made by an End User beyond the warranty made by Wyebot to Channel Partner in Section 8.

### 2.2. Territory

The Territory shall consist of all fifty states in the United States, as well as Canada.

### 2.3. Technical Knowledge

Channel Partner shall maintain sufficient technical knowledge of technology and Products within Channel Partner's organization and shall ensure that any employee representing technology or any Product is adequately trained to do so accurately and/or support End Users.

### 2.4. Channel Partner Resources

Channel Partner shall have access to the Partner Portal for training, sales enablement, and marketing resources ("**Promotional Materials**") as may be provided by Wyebot from time to time. Channel Partner may use Promotional Materials supplied by Wyebot only in the course of marketing the Products. Channel Partner is expected and encouraged to advertise and promote the sales of Products through all appropriate media including trade show exhibits, webinars, direct mailings, space and online advertising, educational meetings, sales aids and so forth. Wyebot must approve, in advance and in writing, all materials that use or incorporate the Wyebot name or the Marks (as defined below), aside from authorized use of existing Wyebot-supplied materials.

## 2.5. Channel Partner Responsibility

Channel Partner shall (i) obtain and maintain all necessary governmental and regulatory approvals and licenses to perform its obligations and activities hereunder, (ii) comply with good business practices and all applicable laws and regulations, including without limitation (to the extent applicable) the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations and (iii) bear all expenses relating to any necessary licenses and/or exemptions with respect to the export of the Products to any location in compliance with all applicable laws and regulations prior to delivery thereof by Wyebot.

## 3. ORDERS AND DELIVERY

### 3.1. Orders and Acceptance

All purchase orders need to be submitted via e-mail to [orders@Wyebot.com](mailto:orders@Wyebot.com) and end user information provided via the order form located on the Partner Portal. All purchase orders placed with Wyebot for Products by Channel Partner shall be subject to acceptance in writing/email by Wyebot referencing Channel Partner's purchase order number. Without limiting the above, all purchase orders will be governed by the terms and conditions of this Agreement and the terms and conditions of Channel Partner's forms of purchase order, acknowledgement or the like shall have no force or effect.

### 3.2. Delivery and Shipping

Wyebot shall use reasonable efforts to deliver the Products on the delivery date specified in the Channel Partner purchase order. Wyebot shall mark all Products for shipment to Channel Partner's address set forth above or to the address specified in the Channel Partner purchase order, and shall deliver the Products to a carrier or forwarding agent chosen by Wyebot or specified in the Channel Partner purchase order. Shipment will be F.O.B. Wyebot's shipping point, at which time risk of loss as to the Products passes to Channel Partner. Wyebot shall pay all standard freight, insurance and other shipping expenses. Wyebot will deliver software-as-a-service Products to End Users via the internet, in accordance with any process set forth in the Partner Portal.

### 3.3. Deal Registrations

Channel Partner will register deals to avoid channel conflict. Guidelines for registering deals are provided in the Partner Portal ("**Deal Registration Program**"). Compliance with the Deal Registration Program is essential to minimize any perceived or real channel conflict. Wyebot will work with Channel Partner to resolve any disputes, but shall have sole discretion and authority to resolve any such disputes. Wyebot reserves the right to restrict or prohibit re-sales to any party in its sole discretion. Without limiting the above, Channel Partner is prohibited from reselling any Products to any party that Channel Partner knows, or should reasonably suspect, to be a competitor (or an agent of a competitor) of Wyebot, or a party who intends to use the Products for any purpose other than as described in Wyebot's marketing material and permitted in the Wyebot SaaS Agreement (such as parties who might use the Products to reverse engineer, decompile or copy or reuse such information). If Channel Partner has any concern that any transaction might violate the foregoing restriction, Channel Partner should obtain advance written approval of such sales from Wyebot.

## **4. PRICING AND PAYMENT**

### **4.1. Prices**

Subject to Wyebot's approval of Channel Partner's creditworthiness (which approval may be withdrawn at any time), Wyebot shall charge and Channel Partner shall pay the fees for the Products according to the then-current pricing as detailed in the Partner Portal. Channel Partner will complete all forms and certifications reasonably requested by Wyebot. Wyebot may revise the fees for the Products upon thirty (30) days' prior written notice to Channel Partner. Revisions will apply to all orders accepted by Wyebot after the effective date of the revision.

### **4.2. Payment**

All payments are non-refundable and due within thirty (30) days of the date of invoice unless alternative credit terms apply. Wyebot may choose to extend due date in its sole discretion upon providing written notice to Channel Partner. Payment is due in currency as specified on Wyebot invoice. Payments made after their due date will incur interest at a rate equal to 1.5% per month or the highest rate permitted by applicable law, whichever is lower.

### **4.3. Taxes**

The prices for Products set forth herein or in the Partner Portal do not include any and all present and future taxes (including any excise, sales, use, value added, withholding, and similar taxes), customs duties, tariffs, or similar fees. Channel Partner shall be responsible for and shall indemnify Wyebot against any such taxes, duties, tariffs and fees, including those required to be paid by Wyebot, based on payments to Wyebot hereunder or on the sale, use or possession by Channel Partner or End Users of the Products, but excluding United States federal, state and local taxes based on Wyebot's net income.

### **4.4. Credit Terms**

Wyebot reserves the right at all times either generally or with respect to any specific order to vary, change or limit the amount or duration of credit to be allowed Channel Partner. At the time of submission of any order for Products hereunder, Wyebot may require Channel Partner to either: (i) pay by certified check or wire transfer to a bank account designated by Wyebot the amount of the aggregate purchase price of the Products ordered (plus any applicable taxes, shipping and other charges); or (ii) cause to be issued by a bank acceptable to Wyebot, and confirmed by a bank designated by Wyebot, one or more irrevocable stand-by letters of credit covering the aggregate purchase price of the Products (plus any applicable taxes, shipping and other charges). If Channel Partner defaults on any of its payment obligations to Wyebot, including failure to comply with credit terms established by Wyebot from time to time in its sole discretion, Wyebot may declare, upon written notice to Channel Partner, all sums immediately due and payable.

### **4.5. Unauthorized Deductions and Late Payments**

Invoiced amounts are not subject to offset, discount or deduction unless expressly authorized by Wyebot in writing. If any amount payable by Channel Partner is not paid when due, then without limiting any other rights which Wyebot may have as a result of such late payment, the amount unpaid shall bear interest until paid at a monthly rate of one and one-half percent (1.5%) or the maximum

amount permitted under law, whichever is less, with such interest to be paid on demand together with all costs incurred by Wyebot to collect the amounts due hereunder, including but not limited to reasonable attorneys' fees and disbursements.

## **5. TRADEMARKS AND NOTICES.**

### **5.1. Trademarks.**

Subject to the terms and conditions herein, Wyebot hereby grants Channel Partner a limited, revocable, non-exclusive right to use Wyebot's trademarks and service marks listed in the Partner Portal as the "Channel Partner Wyebot Marks" from time to time (the "**Marks**") solely in connection with the marketing and distribution of Products pursuant to this Agreement during the term hereof. Channel Partner shall submit to Wyebot all representations of the Marks that Channel Partner intends to use in connection with the Products, for Wyebot's approval of design, color, and other details, in its sole discretion, and Channel Partner shall not use any of Wyebot's trademarks or service marks without Wyebot's prior written approval, in its sole discretion. In the event Wyebot provides such approval, (a) all such Channel Partner use shall be limited to the term of this Agreement, comply with any style guides or other requirements specified by Wyebot, and inure solely to the benefit of Wyebot, and (b) Channel Partner shall cease all such use upon Wyebot's written request thereafter. Except as expressly provided above, nothing herein shall be interpreted as granting any license or right (express, implied or otherwise) with respect to any intellectual property of Wyebot. Channel Partner shall ensure that appropriate Wyebot marks are used in promoting and selling the Products. Under no circumstances will Channel Partner market or sell the Products as a "white label" product or service or in any other manner that does not clearly identify Wyebot as the ultimate provider of the Products.

### **5.2. Ownership of Trademarks**

If Channel Partner, in the course of performing its activities hereunder, acquires any goodwill in any of the Marks, all such goodwill will automatically vest in Wyebot and Channel Partner shall take all such actions or execute any documents necessary to make effective such vesting. Channel Partner shall not contest the validity of any of Wyebot's trademarks or service marks or Wyebot's exclusive ownership thereof. Channel Partner shall not adopt, use, or register, whether as a corporate name, trademark, service mark, other indication of origin or domain name, any of the Marks or any other trademark or service mark of Wyebot, or any word or mark confusingly similar thereto in any jurisdiction. Channel Partner shall not remove or efface any proprietary notices on the Products.

## **6. TERM AND TERMINATION**

### **6.1. Term**

This Agreement will commence in force on the Effective Date and will continue for a term of one (1) year, unless terminated earlier as provided in this Agreement. This Agreement will automatically renew for successive one (1) year terms unless terminated by either party upon no less than thirty (30) days written notice prior to the expiration of the initial or any renewal term.

## 6.2. Termination for Cause

Either party may terminate this Agreement at any time upon written notice if the other party: (i) is in material breach of its obligations hereunder and fails to cure such breach within thirty (30) days following written notice of such breach, or (ii) becomes insolvent or files or has filed against it a petition under bankruptcy or insolvency law which is not dismissed within ninety (90) days, makes an assignment for the benefit of creditors or takes any similar action under applicable bankruptcy or insolvency law.

## 6.3. Effect of Termination

On expiration or termination of this Agreement, Wyebot may cancel any or all unfilled orders. Any orders which are not canceled will be fulfilled per the terms of the Agreement. Upon expiration or termination, each party shall return to the other any materials of the other, including without limitation all Confidential Information. Following any such expiration or termination, any obligations of the parties' which have accrued (including payment obligations), as well as any provisions of this Agreement which reasonably should survive (including Sections 1.6, 4, 5.2, 6.3, 7, 8.2, 9, 10, 11.2, 12 and 13 herein), shall survive. Channel Partner agrees that to the fullest extent allowed by applicable law, the expiration or termination of this Agreement by either party shall not entitle Channel Partner to any termination or severance compensation or to any payment in respect of any goodwill established by Channel Partner during the term of this Agreement, or render Wyebot liable for damages on account of the loss of prospective profits or on account of any expenditure, investment or obligation incurred or made by Channel Partner. Following expiration or termination of this Agreement, (i) Channel Partner shall provide Wyebot with a full accounting and contact information for any existing End Users in order to allow Wyebot to transition any End Users that wish to continue use of the Products, and (ii) Wyebot shall have the right, but not the obligation, to sell to the End User directly or through another channel partner without restriction and shall not owe any compensation to Channel Partner for any reason related thereto.

## 6.4. Termination on Other Grounds

This Agreement may be also terminated: (i) by either party for any or no reason and without liability upon sixty (60) days written notice; and (ii) by Wyebot upon thirty (30) days advance written notice if Channel Partner fails to achieve the yearly minimum revenue commitment set forth in the Wyebot Channel Partner Program.

## 7. CONFIDENTIAL INFORMATION

**"Confidential Information"** means any information disclosed by one party to the other pursuant to this Agreement which is marked "Confidential," "Proprietary," or which, under the circumstances surrounding disclosure, would reasonably be expected to be confidential. Each party shall treat as confidential all Confidential Information of the other party, and shall not use such Confidential Information except to exercise its rights or perform its obligations under this Agreement and shall not disclose such Confidential Information to any third party. This paragraph will not apply to any Confidential Information which is generally known and available, or in the public domain through no fault of the receiver. Each party agrees to effectuate, by agreement, instruction or otherwise, compliance with these confidentiality obligations by its employees, agents, consultants and others who are permitted access or use (in accordance with the terms herein) of the Confidential Information of the

other party. Each party agrees that if there is a breach or threatened breach of the provisions of this Agreement, the other party may have no adequate remedy in money or damages and accordingly shall be entitled to seek injunctive relief and any other appropriate equitable remedies for any such breach without proof of actual injury. Each party further agrees that it will not seek, and agree to waive any requirement for, the posting of any bond in connection therewith. Such remedies shall not be deemed to be the exclusive remedies for any breaches of this Agreement by a party or its representatives, and shall be in addition to all other remedies available at law or in equity. Notwithstanding the above or anything else herein to the contrary, if Channel Partner provides to Wyebot (directly or indirectly, and by any means) any comments, feedback, suggestions, ideas, or other submissions related to the Products (collectively "**Feedback**"), the Feedback will be the sole property of Wyebot and Wyebot will be entitled to use, reproduce, disclose, publish, distribute, and otherwise exploit in any manner, all Feedback, without restriction and without compensating Channel Partner in any way. Wyebot is and shall be under no obligation to maintain any Feedback in confidence, or to respond to any Feedback.

## 8. WARRANTY AND DISCLAIMER

### 8.1. Hardware Warranty

Wyebot warrants that the Wyebot hardware products included in the Products will be free of defects in materials and workmanship under normal use, as described in Wyebot's user documentation, for the applicable one (1), three (3) or five (5) year subscription order term applicable thereto (this warranty excludes damages resulting from normal wear and tear, abuse, accident, modification or other causes that are not defects in materials and workmanship). If a defect arises in the hardware during the applicable order term, Wyebot at its option and sole discretion will use commercially reasonable efforts to (a) repair the hardware at no charge using new or reasonably equivalent parts or (b) exchange the hardware with functionally equivalent hardware that is new or refurbished. Unless agreed to by Wyebot through its customer service representative, Channel Partner (or the End User) will be responsible for all costs, and risk of loss, of shipping hardware to Wyebot in connection with obtaining warranty service. For more information and requirements to submit a hardware warranty claim, please see the Partner Portal. Wyebot does not warrant that it will be able to correct all reported defects or that use of the Products will be uninterrupted or error free. Wyebot makes no warranty regarding features or services provided by any third parties. Channel Partner's sole remedy for Wyebot's breach of the warranty in this paragraph shall be that Wyebot shall remedy the applicable error, or if Wyebot is unable to do so in a timely manner, refund to Channel Partner (or End User, in Wyebot's discretion) actual damages up to a limit of the fees paid for the Product for the period during which the breach of warranty occurred; provided that, Channel Partner must provide Wyebot written notice of any such breach within fifteen days thereof.

## 8.2. Disclaimer

EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 ABOVE, WYEBOT MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE PRODUCTS OR THE SUBJECT MATTER OF THIS AGREEMENT, AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.

## 9. Indemnity

### 9.1. Infringement Indemnification

Wyebot shall, at its own expense, defend or settle any third party suit or proceeding that is instituted against Channel Partner to the extent such suit or proceeding alleges that any Product sold by Wyebot hereunder infringes any duly issued patent or copyright of the United States, and shall pay all damages awarded therein against Channel Partner or agreed upon in settlement by Wyebot; provided that Channel Partner (i) gives Wyebot immediate notice in writing of any such suit, proceeding or threat thereof, (ii) permits Wyebot sole control, through counsel of Wyebot's choice, to defend and/or settle such suit and (iii) gives Wyebot all the needed information, assistance and authority, at Wyebot's expense, to enable Wyebot to defend or settle such suit. In the event the use or sale of any Product purchased from Wyebot is enjoined, or in the event Wyebot wishes to minimize its potential liability hereunder, Wyebot may, at its sole option and expense: (i) procure for Channel Partner the right to distribute such Product; (ii) substitute a substantially equivalent in functionality, non-infringing unit or version of the Product; (iii) modify such Product so that it no longer infringes but is substantially equivalent in functionality; or (iv) if none of the foregoing are commercially feasible, take back such Product and refund the purchase price paid by Channel Partner for such Product. Wyebot shall in no event be obligated to accept new orders for Products which are subject to a claim of infringement covered under this section. THIS SECTION 9.1 STATES THE SOLE LIABILITY OF WYEBOT WITH RESPECT TO ANY INFRINGEMENT BY THE PRODUCTS OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS.

### 9.2. Exclusions

Wyebot's obligations under Section 9.1 shall not apply to and Wyebot shall have no liability or obligation for any infringement arising from: (i) any modification, servicing or addition made to the Product by anyone other than Wyebot, (ii) the use of such Product as a part of or in combination with any devices, parts, software or other technology not provided by Wyebot, (iii) compliance with Channel Partner's design requirements or specifications, (iv) the use of other than the then current unaltered release of the software Product available from Wyebot or (v) the use of such Product to practice any method or process which does not occur wholly within the Product. The above exclusions apply to the extent that the infringement would have been avoided but for such modifications, combinations, compliance with specifications, use of other than the current release or practice of such method or process.

### 9.3. Channel Partner Indemnification

Channel Partner will defend, indemnify and hold Wyebot harmless from and against any and all suits, proceedings, claims, damages, liabilities, costs and expenses (including but not limited to attorneys'

fees) arising out of or relating to any acts or omissions of Channel Partner in connection with this Agreement. With respect to any third party proceeding or suit covered by the above indemnification, Wyebot may control the defense and settlement thereof and Channel Partner shall provide all reasonable assistance requested by Wyebot relating thereto.

## **10. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, WYEBOT'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THE PRODUCTS OR THIS AGREEMENT AT ANY TIME, REGARDLESS OF THE FORM OF ACTION, WILL NOT EXCEED THE AMOUNTS PAID BY CHANNEL PARTNER TO WYEBOT WITHIN THE PRIOR ONE HUNDRED EIGHTY (180) DAYS. WYEBOT WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THE PRODUCTS OR THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION), WHETHER OR NOT WYEBOT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **11. COMPLIANCE WITH LAWS**

### **11.1. Compliance**

Channel Partner agrees to comply with all applicable laws of the United States and all other applicable governmental entities including, without limitation, (i) the Foreign Corrupt Practices Act of 1977, (ii) all export laws, restrictions and regulations of the Department of Commerce or other United States or foreign agency or authority. Channel Partner agrees not to export, or allow the export or re-export of any Wyebot Products, or of information regarding Wyebot Products in violation of any such restrictions, laws or regulations.

### **11.2. Audit Rights**

During the term of this Agreement and for a period of two (2) years following any expiration or termination of this Agreement ("**Auditing Period**"), Channel Partner shall maintain full and complete records of its provision of the Products to End Users and other activities under this Agreement (the "**License Records**"). For the purpose of verifying Channel Partner's compliance with this Agreement, Wyebot shall, at any time during the Auditing Period, be entitled to audit such License Records by providing Channel Partner with fifteen (15) business days prior written notice; provided, however, that no more than one (1) audit may be conducted in any twelve (12) month period. Both parties shall mutually agree upon an independent third party auditor to conduct the audit and such auditor shall sign a standard confidentiality agreement with both parties. Any audit performed pursuant to this Section shall be conducted during normal business hours and at Wyebot's expense; provided, however, that the cost of such audit shall be paid by Channel Partner if the audit reveals an underpayment by Channel Partner of more than five percent (5%) of the amounts payable by Channel Partner to Wyebot in any twelve (12) month period, or any other breach of this Agreement by Channel Partner.

## **12. MISCELLANEOUS**

If any portion of this Agreement is held to be unenforceable, the remainder of this Agreement will remain valid. Neither this Agreement nor any rights or obligations hereunder may be assigned, transferred or delegated by Channel Partner without Wyebot's prior written consent in its sole discretion. Wyebot may freely assign this Agreement, or any rights or obligations hereunder. Subject to the preceding sentences, this Agreement will inure to the benefit of the parties' successors and assigns. The relationship between Wyebot and Channel Partner established by this Agreement is that of independent contractors. Unless otherwise set forth in this Agreement, all notices must be either sent registered or certified mail, return receipt requested, by overnight courier, or served personally. Channel Partner consents to service of process by notice in compliance with this Section 12. The parties agree that the United Nations Convention on the International Sale of Goods will not apply to this Agreement. Channel Partner agrees that any judgment against Channel Partner granted in the state or federal courts in the United States shall constitute a stipulated judgment in any action filed in any jurisdiction. Channel Partner covenants and agrees not to threaten, file or pursue any action against Wyebot arising from or relating to a claim of agency or similar claim based on the distribution relationship and agrees to indemnify, defend, and hold Wyebot and its affiliated companies, and their respective officers, directors, employees and agents, harmless from and against all claims, liability, damages, fees and costs (including fees and costs of attorneys and other experts), arising from or relating to such claim. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts pertaining to contracts made in, and solely performed in the Commonwealth of Massachusetts, without regards to its conflict of laws principles. This Agreement (and the Partner Portal terms and conditions, which are hereby incorporated by reference) constitutes the entire Agreement between the parties and supersede all previous agreements, whether oral or written, between the parties with respect to the subject matter hereof. Except as provided herein (including via the Partner Portal), this Agreement may not be amended except in writing signed by both parties hereto. This Agreement may be executed in multiple counterparts (which may be delivered via .pdf or other facsimile format, or via electronic signature, as reasonably agreed upon by the parties), which shall each be considered an original and together form a single agreement. Any copy of this Agreement made by reliable means (such as PDF, image scan, photocopy or facsimile) shall be considered an original.

## **13. ARBITRATION**

Any dispute, controversy or claim arising out of or relating in any way to this Agreement or the parties' activities hereunder, including without limitation any dispute concerning the construction, validity, interpretation, enforceability or breach of this Agreement, shall be exclusively resolved by binding arbitration upon a party's submission of the dispute to arbitration. In the event of a dispute, controversy or claim arising out of or relating in any way to this Agreement, the complaining party shall notify the other party in writing thereof. Within thirty (30) days of such notice, management level representatives of both parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within thirty (30) days after such notice, the complaining party shall seek remedies exclusively through arbitration. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made

after two years from when the aggrieved party knew or should have known of the controversy, claim, dispute or breach.

The arbitration shall be conducted in Boston, Massachusetts. The laws of the Commonwealth of Massachusetts shall be applied in any arbitration proceedings, without regard to principles of conflict of laws.

Each party shall pay its own proportionate share of arbitrator fees and expenses and the arbitration fees and expenses of the American Arbitration Association. The arbitrator shall be entitled to award the foregoing arbitration and administrative fees and expenses as damages in his/her discretion. The arbitration shall be conducted by one arbitrator. If the parties are not able to agree upon the selection of an arbitrator, within twenty days of commencement of arbitration proceeding by service of a demand for arbitration, the arbitrator shall be selected by the American Arbitration Association. The arbitrator shall have ten years of experience in related matters.

Notwithstanding this Section or any other provisions herein, either party may seek temporary or interim injunctive or other equitable relief, or seek to enforce any arbitral award, in any court of competent jurisdiction, and Channel Partner consents to the non-exclusive jurisdiction of the state and federal courts within Massachusetts with respect thereto.

<Signature page to follow.>

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**Wyebot, Inc.**

by \_\_\_\_\_

Name: \_\_\_\_\_

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

Date ("Effective Date"): \_\_\_\_\_

**[INSERT CHANNEL PARTNER NAME]**

by \_\_\_\_\_

Name: \_\_\_\_\_

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

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

## Exhibit A

### Channel Partner Support Obligations

1. Channel Partner is responsible for all Tier 1 and Tier 2 support as described in the support document
2. Channel Partner will have a technical resource trained on Wyebot Solutions
3. Channel Partner will have a dedicated Wyebot sensor available for the technical support team
4. Any issues escalated to Wyebot must be accompanied by a detailed report