



Inflectra Corporation

8121 Georgia Ave, Suite 504

Silver Spring. MD 20910-4957

+1 202.558.6885

www.inflectra.com

Inflectra Corporation
Certified Solution Partner Agreement

Revision 3.0

Inflectra Certified Solution Partner Program Agreement

This Certified Solution Partner Agreement (“agreement”), is between Inflectra Corporation, a Delaware corporation, with headquarters at 8121 Georgia Ave, Suite 504, Silver Spring, MD 20910-4957, USA (“Inflectra”) and (“Solution Partner”) (collectively, the “parties”), consists of the following terms and conditions:

1. Background

Solution Partner desires to license certain Inflectra software products from Inflectra under the terms of this Agreement, for the purpose of packaging the qualifying Inflectra Products in combination with certain of Solution Partner’s complementary software products, hardware products and/or qualified complementary professional services as a qualified solution set.

In addition, the Solution Partner desires to license certain marks in order to serve as a sales affiliate for Inflectra products by directing web traffic and sales leads to Inflectra for the purposes of revenue sharing.

Therefore, the parties agreed as follows:

2. Definitions

2.1. “Inflectra Product” means the deployment copies of the object code of Inflectra’s proprietary software products or software products in which Inflectra has all necessary rights, power and authority to enter into this Agreement, as selected hereunder and as is more fully set forth in Exhibit C.

2.2. “Inflectra Marks” means the **INFLECTRA** name and mark, the names and marks for the Inflectra Products and associated logos, slogans, service marks and other trademarks set forth in Exhibit C to this Agreement.

2.3. “Complementary Products” means Solution Partner’s complementary software, complementary hardware and/or complementary professional services.

2.4. “Qualified Solution Set” means the Inflectra Products packaged in combination with one or more item of complementary software, complementary hardware or complementary services.

2.5. “Certified Solution Partner” means an Inflectra Certified Solution Partner which Inflectra has approved as a reseller and/or affiliate of Inflectra Products as defined in this agreement.

2.6. “End Customers” means a third party sublicensed by Solution Partner to use a qualified solution set for the end customer’s internal business purposes, and not for redistribution or resale.

2.7. “Territory” means the territory defined in section 1 of this agreement. The Solution Partner is appointed as a non-exclusive certified Solution Partner for the territory outlined in this section.

2.8 “Affiliate Site” means any website that is owned and/or operated by The Solution Partner that either has qualifying links to Inflectra’s website and/or has a qualifying promotion for products available at Inflectra’s website.

2.9 “Qualifying Link” means a hyperlink from The Solution Partner website to Inflectra’s website using one of the Required URLs or any other URL or graphic link provided by Inflectra for use in the Program. A Qualifying Link or “Linking Materials” shall be defined as hyperlinks, buttons, banners or other user interface established by Inflectra for use on The Solution Partner’s website.

2.10 “Qualifying Promotion” means content either published on The Solution Partner’s website or on The Solution Partner’s printed materials that contains promotion codes made available to The Solution Partner by Inflectra for the purpose of attracting customers and associating the transaction with The Solution Partner.

2.11 “Inflectra Referral Form” refers to a document provided to The Solution Partner for the purpose of tracking referrals that have been made ‘offline’.

2.12. “Offline Referral” refers to such referrals that occur when The Solution Partner has referred a potential customer to Inflectra’s website in-person or via a medium other than a Qualifying Link.

2.13. “Solution Partner Level” refers to the different levels/tiers made available in the Program. The benefits of each partner level are described in Exhibit A, and the requirements for Solution Partner to be eligible in each level are described in Exhibit B.

3. License Grants and Participation in Program

3.1. Grant. Subject to the terms and conditions of this Agreement Inflectra grants to Solution Partner and its majority owned subsidiaries, a nonexclusive, non-transferable, non-assignable (except as provided under Section 12.6), license fee bearing, as set forth in this Agreement, limited license throughout the territory (i) to copy and use the Inflectra Distribution Products in Solution Partner’s internal development, support and testing process; (ii) to copy the Inflectra Distribution Products and package same using the Inflectra Marks in combination with one or more Solution Partner’s complementary products as a qualified solution set, (iii) to market and distribute the Inflectra Distribution Products as contained in such qualified solution set to end customers, and (iv) to copy and use internally the Inflectra Distribution Products in accordance with the terms and conditions of the End User License Agreement (EULA) associated with the products that Solution Partner purchased for internal use (if any).”

3.2. Use of Inflectra’s Marks. Inflectra grants the Solution Partner a limited, revocable, non-exclusive, license to use the Inflectra Marks during the term of this agreement. The Solution Partner shall be responsible for using the most up-to-date Inflectra Marks made available to the Solution Partner.

3.3 Limitations. All rights not expressly granted herein are reserved by Inflectra and/or its suppliers. Without limiting the generality of the preceding sentence, Solution Partner receives no rights and agrees: (i) not to modify, port, translate, localize, or create derivative works (in the case of derivative works, exclusive of the qualified solution sets as herein defined) of the Inflectra Products except as allowable under section 3.4 (Co-Branding), (ii) not to decompile, disassemble or otherwise reverse engineer, except as permitted under applicable EEOC law, the Inflectra Products, (iii) not to distribute a solution set except under a valid sublicense agreement that contains substantially the same terms set forth in this Agreement, but in no event less than the same terms as Solution Partner distributes Solution Partner’s products, and (iv) not to copy, market or distribute the Inflectra Products except as part of a qualified solution set, (v) not to copy or sublicense the Inflectra Products on a stand-alone basis or for use with any software other than the Solution Partner’s products unless previously approved by Inflectra.

3.4. Co-Branding. Inflectra grants to Solution Partner and its majority owned subsidiaries the right to add their own corporate logos and marks (“Solution Partner Marks”) to the Inflectra Products and change the colors and styles of the Solution Partner Marks used therein provided that (a) The Inflectra Marks are not modified or removed in any way, and (b) the addition of the Solution Partner Marks or colors and styles does not change the functionality or usability of the Inflectra Products in any way.

3.5. Misleading Practices. As a condition to the Solution Partner’s acceptance and participation in the Inflectra Solution Partner Program, the Solution Partner agrees not to undertake or engage in the following practices. Any violation of this Section shall be deemed a material breach of this Agreement:

- a) Use or otherwise incorporate the words "Inflectra", "Spira" or variations or misspellings in the domain name(s) of the Solution Partner’s Site(s), on any meta tags of Web pages comprising the Solution Partner’s Site, or in advertising or searchable keywords;
- b) Modify or alter Inflectra’s Site in any way;

- c) Make any representations, either express or implied, or create an appearance that a visitor to the Solution Partner's Site is visiting Inflectra's Site, e.g. "framing" the Inflectra Site, without Inflectra's prior written approval; or
- d) "Scrape" or "spider" the Inflectra Site or any other Inflectra website for content (such as images, logos and text).

Furthermore, upon Inflectra's request, the Solution Partner shall immediately remove from its Site any Link to the Inflectra Site which is displayed on a page which Inflectra, in its sole discretion, deem objectionable.

3.6. Partner Levels. Solution Partner will be assigned annually a Partner Level based on the qualifications and requirements outlined in Exhibit B.

- a) Upon execution of this agreement, Solution Partner will be assigned an initial Partner Level by Inflectra.
- b) Solution Partner will be immediately eligible for the benefits associated with this Partner Level as described in Exhibit A.
- c) Every twelve (12) months, Solution Partner will be notified by Inflectra of their new Partner Level based on an assessment of Solution Partner's performance against the requirements outlined in Exhibit B.
- d) This assessment and assignment is at Inflectra's sole discretion.
- e) Upon assignment of a new Partner Level, Solution Partner will be immediately eligible for the benefits associated with this new Partner Level as described in Exhibit A.

4. Payment and Tracking

4.1. Reseller License Fees. Solution Partner agrees to pay to Inflectra license fees minus the applicable Solution Partner Reseller Discount as set forth in Exhibit A. All license fees are non-refundable and non-cancelable except as specifically set forth in Exhibit A, regardless of the number of copies of the Inflectra Products, if any, that are used or distributed by Solution Partner.

4.2. Annual Maintenance And Support Fee. Solution Partner will pay annual maintenance and support fee minus the applicable Solution Partner Reseller Discount, as set forth in Exhibit A, on the effective date, or within 30 days of the date of the Inflectra invoice, whichever is later and on each anniversary of the effective date, or within 30 days of the date of the Inflectra invoice, whichever is later.

4.3. License Management. Inflectra will provide Solution Partner with access to its secure reseller website that enables Solution Partner to originate orders for Inflectra Products using a login and password. This website will enable Solution Partner to generate license keys for Inflectra Distribution Products that can be distributed to Solution Partner's end customers under the terms of this agreement.

4.4. License Fee Payment. All orders originated from this website using Solution Partner's credentials will be tracked by Inflectra and the corresponding license fees invoiced on a quarterly basis. Solution Partner will remit payment for these invoices within 30 days of the date of the Inflectra invoice.

4.5. Payment Methods. Solution Partner will pay the Inflectra invoices using either a check denominated in US dollars drawn upon a US bank or using Automated Clearing House (ACH) for US Solution Partners and SWIFT wire transfer for overseas Solution Partners.

4.6. Taxes, Duties And Assessments. Solution Partner will pay or reimburse all federal, state and local taxes (exclusive of taxes on Inflectra's net income), duties and assessments arising on or measured by amounts payable to Inflectra under this Agreement, or furnish Inflectra with evidence acceptable to the taxing authority to sustain an exemption thereof.

4.7. Records; Audits. Solution Partner agrees to keep all usual and proper records and books of account and all usual and proper entries relating to each transaction involving any qualified solution set. Upon showing reasonable cause, Inflectra may cause an audit and/or inspection to be made of the applicable Solution Partner's records and facilities in order to verify statements issued by Solution Partner and Solution Partner's compliance with the terms of this Agreement. Any such audit will be conducted by an independent certified public accountant selected by Inflectra (other than on a contingent fee basis). Any audit and/or inspection will be conducted during regular business hours at Solution Partner's facilities, with five (5) days notice no more often than once per year. Solution Partner agrees to provide Inflectra's designated audit or inspection team access to the relevant Solution Partner records and facilities. Any such audit will be paid for by Inflectra. In the event that an Inflectra supplier's rights are affected, Inflectra may disclose the results of any audit conducted under this section to its suppliers solely as it relates to those suppliers.

4.8. Affiliate Commissions. As an approved participant in Inflectra's Solution Partner Program, The Solution Partner may earn commissions for affiliate services in accordance with this Section 4.

Inflectra agrees to pay The Solution Partner the commission specified in this Agreement if Inflectra sells to a visitor to Inflectra's site ("End Customer") a product or service that is the subject of this Agreement and if that Customer has accessed Inflectra's site and purchased the product or service via either a Qualifying Link, using a Promotion Code or in the case that The Solution Partner has sent a completed Inflectra Referral Form within the time period specified in section 5.5.1.

4.9 Compensation Rates. Inflectra will pay The Solution Partner a percentage (the "Compensation Rates") of Qualifying Product Revenues generated by Customers linking to Inflectra's site from The Solution Partner's website using a Qualifying Link, using a Promotion Code provided by The Solution Partner to the Customer, or covered by a submitted Inflectra Referral Form. The Compensation Rates for this Agreement are based on the Solution Partner's Level as described in Exhibit A.

4.10 Payment Processing. Inflectra shall have the sole right and responsibility for processing all payment processing and fulfillment of orders for its Products sold pursuant to this Agreement. The Solution Partner acknowledges that all agreements relating to sales to Customers shall be between Inflectra and the Customer.

4.11. Compensation Entitlement. The Solution Partner acknowledges that its entitlement to any compensation reported with respect to any tracked or reported activity is solely a function of the terms of its agreement with Inflectra and that Inflectra is solely responsible for its payment. The fact that a compensation amount is reported for any tracked activity does not necessarily mean that a payment is due to The Solution Partner from Inflectra, since payment may be subject to conditions established by Inflectra, including policies regarding order cancellation, returned merchandise, receipt of pending credit card authorizations and minimums for earned compensation before payment is made. All determinations of Qualifying Links, valid Promotion Codes, approval of Inflectra Referral Forms and the compensation due to The Solution Partner shall be final and binding.

4.12 Qualifying Determination. All determinations of Qualifying Links, Inflectra Referral Forms and whether a commission is payable will be made by Inflectra and will be final and binding on both parties. Prices for the products will be set solely by Inflectra at its discretion.

4.14. Commission Tracking. Inflectra will be solely responsible for tracking sales and commissions using special software that communicates with the qualifying links assigned to Solution Partner. Inflectra will endeavor to do its best to ensure accurate tracking of referrals made by Solution Partners. Solution Partners will themselves be solely responsible for ensuring that these qualified links are formatted properly on The Solution Partner website, a necessary prerequisite to accurate tracking of referral sales. Notwithstanding the above statement of responsibility by Inflectra to track sales, Solution Partner hereby acknowledge and accepts that the tracking system employed by Inflectra is not 100% fail-safe and that

there may on occasion be instances of referral sales made that are not credited to an affiliate for any of the following possible reasons:

- a) Failure by The Solution Partner to use the proper format of the qualified link in promotions, webpage links, banner ads, and so on.
- b) Deliberate or accidental actions by customers to circumvent an affiliate's qualified link so that our software is unable to accurately track that sale.
- c) Bugs, glitches or crashes of the tracking software that render it unable to accurately track sales for a period of time.
- d) Acts of nature that cause irretrievable data loss on the computers and back-up disk media.

4.15. Referral Fee Payment. Unless otherwise stated in an Offer Addendum, Inflectra will pay The Solution Partner referral fees on a quarterly basis. Approximately thirty (30) days following the end of each quarter, Inflectra will send The Solution Partner an EFT/ACH payment (for US-based affiliates) or wire transfer (for overseas affiliates) for the referral fees earned on Qualifying Product revenues for that quarter, less any returns, processing fees and canceled orders. However, if the referral fees payable to The Solution Partner for any quarter are less than \$20.00USD, Inflectra will hold those referral fees until the total amount due is at least \$20.00USD or (if earlier) until this Agreement is terminated.

5. Solution Partner's Responsibilities

5.1. Maintain Partner Level. Solution Provider is responsible for maintaining its eligibility for its Partner Level in the Inflectra Certified Partner Program. The requirements for maintaining the eligibility are enumerated in Exhibit B and more fully described in the **Inflectra Partner Program Brochure**. Solution Partner is responsible for ensuring it has the appropriate number of trained and certified staff, delivered the agreed sales volume, and has listed Inflectra on its website as a partner.

5.2. Solution Set Fees. All fees charged by Solution Partner to its End Customers for the qualified solution set will be at its sole discretion. Solution Partner grants to Inflectra the right to use Solution Partner's marks and include Solution Partner's information on the Inflectra partner website and in the Inflectra partner program marketing materials and collateral. In addition, the parties agree that the parties may mutually agree to issue a joint press release upon execution of this Agreement.

5.3. Reseller Account Security. Solution Partner is responsible for maintaining the security of its reseller account and for not disclosing its account credentials or passwords to unauthorized parties. Solution Partner will be responsible for all orders initiated from its account regardless of whether they were made by authorized or unauthorized users.

5.4. Marketing. The Solution Partner will display prominently on its website Inflectra provided logos and product banners for products listed in Exhibit C. The logos need to be included with hyperlinks to the appropriate landing page on the Inflectra website.

5.5. Affiliate Links. The Solution Partner shall only link its site to areas within Inflectra's website using Required URLs for the Program. The Solution Partner may post as many links to the Required URLs as it likes. The position, prominence and nature of links on Inflectra's site shall comply with any requirements specified in the Offer, but otherwise will be in Inflectra's sole discretion. Only valid Qualifying Links will be tracked for purposes of determining referral fees that The Solution Partner may be eligible to receive on Qualifying Product Sales generated through The Solution Partner's site.

5.5.1 In the case of Offline Referrals, The Solution Partner is required to fill out the Inflectra Referral Form for each referral and submit to Inflectra no later than ten (10) business days before the referred customer makes the purchase from Inflectra.

5.6 The Solution Partner agrees to display Inflectra's Link materials appropriately on its website, Printed Materials and/or Email and to respect Inflectra's trademarks, service marks and other rights in the Link Materials. The Solution Partner will use only these Link materials to link its website to Inflectra's website, and The Solution Partner will not alter the look or feel of these Link Materials or of Inflectra's website in any way. The Solution Partner will update to new versions of Link Materials as Inflectra makes them available or The Solution Partner is responsible for submitting a request for a specific type of Linking Material.

5.7 Inflectra will not, and is not obligated to, make any representations, warranties or other statements concerning The Solution Partner, its Site, its printed materials, any of its products or services, or its Site policies, except as expressly authorized by the Offer.

5.8 The Solution Partner will be solely responsible for the development, operation and maintenance of its website and for all materials that appear on its Site. Inflectra disclaims all liability for such materials. The Solution Partner shall indemnify and hold Inflectra harmless from all claims, damages and expenses (including, without limitation, attorney's fees) relating to the development, operation, maintenance and contents of The Solution Partner's Site. The Solution Partner is also responsible for notifying Inflectra of any malfunctioning of the Required URLs or other problems with its participation in the Program in accordance with the terms of the Offer and this Agreement. Inflectra (or a designee) will respond in normal course to all concerns upon notification.

5.9. Other The Solution Partner will (1) not make any representations, warranties or other statements concerning Inflectra other than those contained within this agreement; (2) protect Inflectra's confidential information and (3) not use or display Inflectra's trademarks (outside of the terms of this agreement) or otherwise infringe Inflectra's intellectual property rights.

6. Inflectra's Responsibilities

6.1. Promotion. Inflectra will promote Solution Partner as a Certified Solution Partner on its website and on other marketing materials (e.g., periodic newsletters) and offer Solution Partner to take part in joint webinars and other events in accordance with the program benefits for specific Partner Levels as described in Exhibit A.

These marketing materials may include descriptions of Solution Partner's complementary products in general and the qualified solution sets in particular. In addition, Inflectra will direct customers looking for support with its products in the territory outlined in Section 1 to Solution Partner.

6.2. Free Licenses. Inflectra will provide Solution Partner with free licenses and cloud instances ("Partner Benefit Licenses") of the Inflectra Products for the purposes of internal training and product demonstrations in accordance with the program benefits for specific Partner Levels as described in Exhibit A. Solution Provider will **not** use these Partner Benefit Licenses for production use or use on Solution Provider End Customer projects.

6.3. Curated Leads. For Solution Partners at the appropriate Partner Level described in Exhibit A, Inflectra will provide Solution Partner with inbound potential customer leads from its website. These leads will be distributed by the appropriate Inflectra Partner Manager assigned to your account.

6.4. Training. Inflectra will provide Solution Partner with free product and sales training ("Partner Training") on the Inflectra Products for the purposes of internal training and supporting End Customer product demonstrations in accordance with the program benefits for specific Partner Levels as described in Exhibit A.

7. Proprietary Rights

Inflectra and/or its suppliers retain any and all right, title and interest in and to the Inflectra Products. This Agreement grants no additional express or implied license, right or interest in any copyright, patent, trade secret, trademark, invention or other intellectual property right of Inflectra. Solution Partner receives no rights to and will not sell, assign, lease, market, transfer, encumber or suffer to exist any lien or security interest on any Inflectra product, nor will Solution Partner take any action that would cause any Inflectra product to be placed in the public domain. Solution Partner will not remove, or allow to be removed, any Inflectra copyright, trade secret or other proprietary rights notice from any Inflectra product. Solution Partner will not make any warranties with respect to any Inflectra product beyond those made to Solution Partner by Inflectra under this Agreement. Any patents already issued to Inflectra or patents issued to Inflectra in the future will not limit any rights granted to Solution Partner hereunder.

8. Term and Termination

8.1 Term. This Agreement will commence on the execution date listed in Section 1 and shall continue for twelve (12) months. This Agreement may be terminated by either party for cause with immediate effect. This Agreement will automatically renew and be extended prior to the above-referenced expiration unless written notification to the contrary is given by either party to the other party ninety (90) days before the expiration date.

8.2. Termination For Breach. Either party may terminate this Agreement by providing written notice to the other party if the other party fails to perform or observe any of its obligations under this Agreement and such failure is not cured within thirty (30) days after written notice thereof from the terminating party.

8.3. Bankruptcy. Either party may terminate this Agreement immediately by written notice to the other party if there occurs any assignment of the other party's assets for the benefit of creditors, any dissolution of the other party, any voluntary act of bankruptcy by the other party, or any involuntary filing under any bankruptcy law against the other party which is not dismissed within thirty (30) days of filing.

8.4. Effect. Upon expiration or termination of this Agreement for any reason:

- a) All licenses and other rights granted to Solution Partner under this Agreement will become null and void, except: (i) for the end user licenses for any qualified solution set previously distributed by Solution Partner, or (ii) for the limited license to Solution Partner to use the Inflectra Products for the sole purpose of fulfilling any pre-existing contractual obligations for maintenance and support services of the Solution Partner to its end customers.
- b) Solution Partner and its majority owned subsidiaries will surrender all copies of the Inflectra Products in their possession or control, or, at Inflectra's option, they will destroy and provide Inflectra with a certificate signed by an executive officer attesting to the destruction of all copies of the Inflectra Products remaining in their possession or control.
- c) Upon termination of this Agreement, all outstanding obligations or commitments of either party to pay amounts to the other party through the termination date of this Agreement, if any, will become immediately due and payable.
- d) Upon termination of this Agreement, neither party will have any right to receive any compensation, reimbursement or other amounts from the other party solely as a result of such termination, and neither party will have any right whatsoever in or to the other party's software or any copyrighted materials, patents, trade secrets, or other proprietary rights relating to the other party's software, other than as Provided for in this Section 8.
- e) Upon termination of this Agreement, either party can pursue it remedies under this Agreement, whether at law or in equity, including without limitation suing for damages and injunctive relief,

and all other remedies available under copyright, patent, trademark, trade secret, and other applicable laws and administrative regulations.

- f) Notwithstanding the foregoing, in the event of expiration or termination except in the case of an uncured material breach by Solution Partner of Section 4 (Payment and Tracking), Section 5 (Solution Partner's Responsibilities), Section 7 (Proprietary Rights) or any previously executed agreements including but not limited to any Non-Disclosure Agreements, Inflectra agrees to permit Solution Partner a period of three (3) months ("removal period") from the date of termination to re-engineer its products to remove the Inflectra Distribution Products from such products. until the earlier of (i) the expiration of the removal period or (ii) the date Solution Partner has removed the Inflectra Distribution Products from its products, all licenses granted under this Agreement will remain in effect, subject to payment under Section 4.

9. Warranty

9.1. In General. For 30 days from the date of shipment, Inflectra warrants that the media on which any Inflectra product is contained will be free from defects in materials and workmanship and that the Inflectra product as received from Inflectra will substantially conform to its most-current end user documentation, To obtain warranty service during the 30 day period, Solution Partner may return the Inflectra Product to Inflectra, postage prepaid (if necessary), with a description of the problem. The defective media on which the Inflectra Product is contained will be replaced at no additional charge to Solution Partner.

9.2. No Other Warranties. EXCEPT AS SET FORTH IN THE FOREGOING LIMITED WARRANTY WITH RESPECT TO SOFTWARE OTHER THAN THE SAMPLE APPLICATION CODE AND THE TRIAL VERSION, THE DEVELOPER VERSION AND NOT FOR RESALE VERSION, INFLECTRA AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALSO, THERE IS NO WARRANTY OF NON-INFRINGEMENT AND TITLE OR QUIET ENJOYMENT. INFLECTRA DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. NO RIGHTS OR REMEDIES REFERRED TO IN ARTICLE 2A OF THE UCC WILL BE CONFERRED ON YOU UNLESS EXPRESSLY GRANTED HEREIN. THE SOFTWARE IS NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. INFLECTRA SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

The Inflectra Products are not designed for use in hazardous environments requiring fail-safe controls, including without limitation operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, and life support or weapons systems. Without limiting the generality of the foregoing, Inflectra specifically disclaims any express or implied warranty of fitness for such purposes.

Inflectra shall use reasonable efforts to test the Inflectra Products for any virus(s) or time bomb(s), and will not knowingly deliver any Inflectra product to Solution Partner that contains any such virus(s) or time bomb(s).

9.3. Rights, Power And Authority. Each party warrants to the other party that it has all necessary rights, power and authority to enter into this Agreement and to grant the rights granted by such party under this Agreement.

10. Indemnification

10.1. Inflectra's Obligations. Inflectra will defend, indemnify and hold harmless Solution Partner against any third party claim, lawsuits, or damages, including attorney's fees, that the use of the Inflectra's products under the terms of this Agreement infringes any copyright, patent, trademark or other similar intellectual property right of any third party in any country that Solution Partner distributes the qualified solution set. Inflectra will have no obligation hereunder for any claim of infringement based on (i) the use of a superseded or altered release of the Inflectra Products if such infringement would have been avoided by the use of a current, unaltered release of the Inflectra Products, so long as the current release is substantially compatible with the immediately preceding released version of the Inflectra Products, (ii) the combination or use of the Inflectra Products with software, hardware or other materials not furnished by Inflectra if such infringement would have been avoided by the use of Inflectra Products alone, or (iii) the use of the Inflectra Products other than as permitted under this Agreement. In the event that the Inflectra Products are held or are believed by Inflectra to infringe, Inflectra shall have the option, at its expense, to: (i) modify the Inflectra Products to be non-infringing; (ii) obtain for Solution Partner a license to continue using the Inflectra Products, or (iii) terminate this Agreement as to the infringing Inflectra Products and refund to Solution Partner the fees paid under this Agreement for such infringing Inflectra Products. The foregoing states Inflectra's entire liability and Solution Partner's exclusive remedies for infringement of intellectual property rights of any kind.

10.2. Solution Partner's Obligations. Solution Partner agrees to indemnify and defend Inflectra from any and all third party claims, lawsuits or damages, including attorney's fees, that Inflectra may suffer as a result of the failure of Solution Partner to abide by the material terms of this Agreement.

10.3. Conditions Of Indemnity. The foregoing indemnities are conditioned on prompt written notice of any claim, action or demand for which indemnity is claimed; complete control of the defense and settlement thereof by the indemnifying party, and cooperation of the other party in such defense. The non-indemnifying party may choose to be represented by legal counsel during any such action, at their expense, which in no event shall dilute the rights and obligations of the preceding sentence.

11. Limitation of Liability

11.1 General. EXCEPT FOR SOLUTION PROVIDER'S WILLFUL VIOLATION OF INFLECTRA'S INTELLECTUAL PROPERTY RIGHTS IN AND TO INFLECTRA'S PRODUCTS, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR EXEMPLARY DAMAGES ARISING OUT OF THIS AGREEMENT,, BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY OR CONTRIBUTION, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2. Partner Website Account Access. With respect to passwords, account identifiers, and other systems used to control access to the Solution Partner's reseller account, Solution Partner acknowledges and agrees that it is its responsibility to safeguard such passwords, account identifiers, and other systems used to control access to its account. Solution Partner agrees that Inflectra may, but is not required to, take reasonable measures to verify the identity of parties who claim to have lost or forgotten passwords and/or account information and to then provide the information to such parties and that Inflectra shall not be responsible to Solution Partner for losses or claims for any inadvertent disclosure of such passwords which may result thereby. Solution Partner expressly agrees that it is reasonable for Inflectra to email passwords to designated email account(s), to phone designated phone numbers, or to employ security questions as a means to verify the identity of the party entitled to control Solution Partner's reseller account.

12. General

12.1 No Agency. Each party shall act as an independent contractor and shall have no authority to obligate or bind the other in any respect, and nothing in this Agreement shall create any partnership, joint ventures, agency, franchise, sales representative or employment relationship between the parties. Neither party shall make any statement, whether on their sites or otherwise, that reasonably would contradict anything in the paragraph.

12.2 Responsibility for Binding Agreement. The Solution Partner acknowledges that it has read this Agreement and agrees to all its terms and conditions. The Solution Partner understands that Inflectra may at any time (directly or indirectly) engage in partnerships on terms that may differ from those contained in this Agreement or that are similar to or compete with the Solution Partner. The Solution Partner has independently evaluated the desirability of participating in the Program and is not relying on any representation, guarantee, or statement other than as set forth in this Agreement.

12.3 Jurisdiction; Venue. This Agreement shall be governed by the internal laws of the State of Maryland, without reference to rules governing choice of laws and the Solution Partner irrevocably consents to the jurisdiction of such courts. Inflectra may freely assign their rights in this Agreement. A Solution Partner may not assign their rights in this Agreement.

12.4 Counterparts; Manifestation of Assent. This Agreement may be agreed to in more than one counterpart, each of which together shall form one and the same instrument. The parties agree that execution and manifestation of assent may be achieved in any format convenient to the parties.

12.5 Severability. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

12.6 Assignment. The Solution Partner may not assign this Agreement, by operation of law or otherwise, without Inflectra's prior written consent, which may be withheld by Inflectra's sole discretion. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns. Inflectra's failure to enforce the Solution Partner's strict performance of any provision of this Agreement will not constitute a waiver of Inflectra's right to subsequently enforce such provision or any other provision of this Agreement.

12.7 Equitable Relief. The parties agree that any breach of either of the party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data may result in irreparable injury for which there may be no adequate remedy at law. Therefore, in the event of any breach or threatened breach of a party's obligations regarding trademarks, service marks or trade names, confidentiality, links or the removal of links, and/or user data, the aggrieved party will be entitled to seek equitable relief in addition to its other available legal remedies in a court of competent jurisdiction.

12.8 Obligation to Mediate in Good Faith. Except as provided in this Section 12.8, before either party initiates a lawsuit against the other relating to this Agreement, the parties agree to mediate all disputes and claims arising out of or relating to this Agreement, the parties' performance under it, or its breach. To this end, either party may request, after informal discussions have failed to resolve a dispute or claim, that each party designate an officer or other management employee with authority to bind the party to meet in good faith and attempt to resolve the dispute or claim through mediation. During their discussions, each party will honor the other's reasonable requests for information that is not privileged and relates to the dispute or claim. This Section does not apply (i) should the expiration of the statute of limitations for a cause of action be imminent, or (ii) if a party is seeking an injunction pursuant to Section 12.7.

12.9 Force Majeure. The Solution Partner acknowledges that Inflectra's servers, equipment, and services (e.g. tracking and reporting) may be subject to temporary modifications or shutdowns due to causes beyond Inflectra's control. Such temporary service interruptions will not constitute a breach of this

Agreement. Inflectra will use commercially reasonable efforts to provide the services contemplated under this Agreement and to remedy any temporary interruptions or other problems that adversely affect the Program.

12.10 Attorneys' Fees. In the event any action is commenced to construe or enforce any provision of this Agreement, the prevailing party, in addition to all other amounts such party is be entitled to receive from the other party, will be entitled to receive its reasonable attorneys' fees and costs incurred in bringing such action.

12.11 Survival. Sections 8 (Term and Termination), 10 (Indemnification), 11 (Limitation of Liability), and 12 (General), including all subsections thereof, shall survive the termination of this Agreement.

12.12. Export. Solution Partner may not export or re-export the Inflectra Products in violation of the then current United States export laws. Inflectra shall provide Solution Partner with reasonable assistance in classifying and otherwise describing the Inflectra Product for purposes of meeting such U.S. Government requirements and obtaining such U.S. Government approvals.

12.13. Government Use. The Inflectra Products provided under this Agreement are commercial computer software developed exclusively at private expense, and in all respects are proprietary data belonging to Inflectra or its suppliers.

- a) Department of Defense End Users. (i) if the Inflectra Products are acquired by or on behalf of agencies or units of the Department of Defense (DoD), then, pursuant to DoD FAR Supplement Section 227.7202 and its successors (48 C.F.R. 227.7202) the Government's right to use, reproduce or disclose the Inflectra Products acquired under this Agreement is subject to the restrictions of this Agreement.
- b) Civilian Agency End Users. (i) If the Inflectra Products are acquired by or on behalf of civilian agencies of the U.S Government, then, pursuant to FAR Section 12.212 and its successors (48 C.F.R. 12.212), the Government's right to use, reproduce or disclose the Inflectra Products acquired under this Agreement is subject to the restrictions of this Agreement.

12.14. Escrow. Upon request, Solution Partner may become a beneficiary of Inflectra's source code escrow by entering into an agreement with Inflectra and the independent escrow agent under which the relevant Inflectra Product will be released to Solution Partner under certain conditions in the event that Inflectra is unable or unwilling to support or maintain such Inflectra Product in breach of this Agreement. Any source code released to Solution Partner will be confidential information bound under any previous executed Non-Disclosure Agreements.

Exhibit A – Solution Partner Levels & Benefits

A.1. Solution Partner Levels

The following Solution Partner Levels are currently available in the Inflectra Solution Partner program:

- Blue
- Silver
- Gold
- Platinum

A.2. Solution Partner Level Benefits

The following benefits are provided for each of the different Solution Partner Levels:

Benefit*	Blue	Silver	Gold	Platinum
Reseller Discount	10-40%	20-40%	25-40%	30-40%
Affiliate Commission	10-40%	20-40%	25-40%	30-40%
Inflectra Partner Portal Access	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Sales Support		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Co-marketing Initiatives		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Partner-Exclusive Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Account Mapping		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Partner Exclusive Events		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Training on Tools & Sales		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Certifications & Badges		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Listed on Inflectra Website		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Free Licenses		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Discounted Licenses (starting at 20%)	<input checked="" type="checkbox"/>			
Curated Leads			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Personalized Training on Tools & Sales			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Screen Sharing Technical Assistance			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
MDF Offerings			\$2,500	\$5,000
Access to Inflectra Sales Teams			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Joint PR Opportunities				<input checked="" type="checkbox"/>

*Inflectra may at its discretion offer Solution Partner additional benefits in addition to those listed for a specific level at Inflectra's sole discretion.

A.3. Reseller Discounts by Revenue Tier

The reseller discounts applicable for sales of Inflectra products is as follows.

Annual Sales Revenue (USD)	Reseller Discount
\$0-\$125,000	10%
\$125,001-\$300,000	20%
\$300,001-\$500,000	30%
\$500,001+	40%

The initial discount percentage will depend on your partner level. To clarify, here are two examples:

- You are a **blue tier** partner. Your first \$125,000 of revenue will have a 10% discount. Revenue between \$125,001 and \$300,000 will have a 20% discount.
- You are a **silver tier** partner. Your first \$300,000 of revenue will have a 20% discount. Revenue between \$300,001 and \$500,000 will have a 30% discount.

A.4. Affiliate Commissions by Revenue Tier

The commission schedule for sales of Inflectra products is as follows.

Annual Sales Revenue (USD)	Affiliate Commission
\$0-\$125,000	10%
\$125,001-\$300,000	20%
\$300,001-\$500,000	30%
\$500,001+	40%

The initial percentage will depend on your partner level. To clarify, here are two examples:

- You are a **blue tier** partner. Your first \$125,000 of revenue will generate a 10% commission. Revenue between \$125,001 and \$300,000 will generate a 20% commission.
- You are a **silver tier** partner. Your first \$300,000 of revenue will generate a 20% commission. Revenue between \$300,001 and \$500,000 will generate a 30% commission.

Exhibit B – Solution Partner Obligations

B.1. Solution Partner Program Requirements

The following requirements must be met by Solution Partner to be eligible for each of the different Solution Partner Levels:

Requirement*	Silver	Gold	Platinum
Partner Engagement Points	120	180	240
List Inflectra on partner website	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Number of Inflectra-Certified Sales Staff	1	2	5
Number of Inflectra-Certified Technical Staff	1	2	5
Number of Inflectra-Certified Pre-sales/Demo Staff	-	1	2

*Inflectra may at its discretion waive a specific partner level requirement for Solution Partner at Inflectra's sole discretion.

B.2. Solution Partner Engagement Points

Engagement points shall be earned annually by the solution provider in close approximation to the suggested activities below.

Activity	Point Value
Sales:	
First sale of an Inflectra Product	20
Additional tool sales (\$20K increments)	15
Sale to targeted prospect	20
Log qualified lead in partner portal	10
Account mapping	10
Engagement:	
Attend ICON	20
Sponsor ICON	15
Partner Skills Assessment & Survey	10
Conference co-sponsorship	10
Partner-specific webinars	10
Partner Deal Collaborations	10

Continuing Education:	
Inflectra Campus training module	10
Training Teach-Back	5
Demo-Back	10
Partner Office Hours	5
Inflectra Ninjas	5
Lightning Talks	5
Webinars	5
Marketing:	
Joint webinar	15
Guest Blog	10
Social Media co-marketing	5
Case Study	15
General: Other	10

Exhibit C – Inflectra Marks

The following marks are either trademarks or registered trademarks of Inflectra Corporation in the United States or other countries:

- Inflectra®
- SpiraTest®
- SpiraPlan®
- SpiraTeam®
- RemoteLaunch®
- Rapise®
- KronoDesk®
- TaraVault®
- Spira™
- SpiraCapture™
- InflectraCON™