



## THE KONG COMPANY, LLC AUTHORIZED RESELLER POLICY

This The Kong Company, LLC Authorized Reseller Policy (“Reseller Policy”) is issued by The Kong Company, LLC (“KONG”) and applies to Authorized Resellers of KONG products (“Products”) in the United States of America. By purchasing Products from an Authorized KONG Distributor for retail sale, you (“Reseller,” “you,” or “your”) agree to adhere to the following Reseller Policy. Please read this Reseller Policy carefully. Until such status is otherwise revoked by KONG in KONG’s sole and absolute discretion, Reseller shall be considered an “Authorized Reseller” hereunder. This Reseller Policy is effective as of April 16, 2018, and shall supersede the terms of any policies previously provided to Reseller by KONG that are inconsistent with the terms herein.

1. **Manner of Sale.** Reseller shall sell the Products only as set forth herein. Otherwise, the Products may not be eligible for certain services and benefits, including, wherever permitted by law, coverage under KONG’s warranties or guarantees relating to the Products.

(a) **Authorized Customers.** Reseller shall sell Products solely to End Users of the Products. An “End User” is any purchaser of a Product who is the ultimate consumer of the Product and who does not intend to resell the Product to any other person or entity. Reseller shall not sell to anyone a quantity of the Products greater than that generally purchased by an End User. Reseller shall not sell or transfer any of the Products to any person or entity for resale without the prior written consent of KONG. This includes sales to B2B accounts, wholesalers, freight forwarders/drop shippers for other resellers, or any other person or entity Reseller knows or has reason to believe intends to resell the Products.

(b) **Geographic Location of Sales.** Reseller shall not sell, ship or invoice Products to customers outside of the United States of America without the prior written consent of KONG.

(c) **Online Sales.**

(i) **Resellers Without Physical Retail Locations.** Resellers without physical retail locations offering face-to-face customer interaction (e.g., catalog or Internet-only Resellers) shall not market for sale or sell the Products on or through any publicly accessible website, including, without limitation, any third-party marketplace website such as Amazon, eBay, Jet, Rakuten, Walmart Marketplace, or Sears Marketplace, without the prior written consent of KONG, which is granted solely through execution by KONG of the Authorized Online Seller Agreement. Execution by KONG of the Authorized Online Seller Agreement constitutes the only means of providing consent to sell the Products online on publicly accessible websites. No KONG employee or agent can authorize online sales through oral statements, other written agreement, or by any other means. The terms of this Reseller Policy supersede any prior agreement between KONG and Reseller regarding the sale of the Products online. Any authorization previously granted to Reseller by KONG to sell the Products online is hereby revoked.

(ii) **Resellers With Physical Retail Locations.** Resellers with physical retail locations offering face-to-face customer interaction are permitted to market for sale or sell the Products on the Internet through Permissible Websites. A “Permissible Website” is a website that (1) is operated by Reseller in Reseller’s legal name; (2) conspicuously states Reseller’s full legal name, physical address, mailing address (if different from the physical address), telephone number, and email address; (3) does not give the appearance that it is operated by KONG or any third party; and (4) does not include in its domain name (including any top-level domain or subdomain) any KONG trademark or product name nor any misspelling of any KONG trademark or product name. KONG reserves the right to terminate, at any time and in its sole discretion, its approval for Reseller to market and sell Products on the Permissible Websites, and Reseller must cease all such marketing and sales on the Permissible Websites immediately upon notice of such termination. Reseller shall not market or offer for sale the Products on or through any publicly accessible website other than a Permissible Website, including, without limitation, any third-

party marketplace website such as Amazon, eBay, Jet, Rakuten, Walmart Marketplace, or Sears Marketplace, without the prior written consent of KONG. Execution by KONG of the Authorized Online Seller Agreement constitutes the only means of providing consent to sell the Products online on other publicly accessible websites. No KONG employee or agent can authorize such online sales through oral statements, other written agreement, or by any other means.

A. With respect to sales of Products through the Permissible Websites, Reseller shall be responsible for all fulfillment to its customers, any applicable taxes associated with such individuals' purchases of Products, and any returns of Products. Reseller agrees not to use any third-party fulfillment service to store inventory or fulfill orders for the Products unless separately authorized by KONG in writing. Further, Reseller agrees not to represent or advertise any product as "new" that has been returned or repackaged.

B. When selling Products through a Permissible Website, Reseller shall at all times (A) be in compliance with all applicable privacy, accessibility, and data security laws, regulations, and industry standards, including, but not limited to, the World Wide Web Consortium Web Content Accessibility Guidelines 2.0 (at the AA level, or, in the absence of a AA level standard, at the A level) and the Payment Card Industry Data Security Standard ("PCI DSS"); (B) maintain detailed privacy policies and be in compliance with its privacy policies and the requirements of any contract to which Reseller is a party; and (C) have implemented and maintain written information security guidelines, which include physical, administrative and technological controls designed to prevent the unauthorized access to, disclosure, destruction, or loss of personally identifying information.

C. In marketing the Products on the Permissible Websites, Reseller shall only use images of Products either supplied by or authorized by KONG and shall keep all Product descriptions up to date. Reseller's use of the KONG IP (as hereinafter defined) on the Permissible Websites shall be in conformance with any guidelines that may be provided by KONG and must be commercially reasonable as to the size, placement, and other manners of use.

(d) ***Sales Practices and Inventory.*** Reseller shall conduct its business in a reasonable and ethical manner at all times, whether engaged in the sale of KONG Products or other products, and shall not engage in any deceptive, misleading or unethical practices or advertising at any time, nor make any warranties or representations concerning the Products except as expressly authorized by KONG. Reseller shall comply with any and all applicable laws, rules, regulations, and policies related to the advertising, sale and marketing of the Products. Further, Reseller shall carry an inventory of the Products adequate to meet the needs of, and to furnish prompt and efficient delivery of Products to, its customers.

(e) ***Product Packaging and Display.*** Reseller shall sell Products in their original packaging. Relabeling, repackaging (including the separation of bundled products or the bundling of separate products), and other alterations are not permitted. Tampering with, defacing, or otherwise altering any serial number, UPC code, batch or lot code, or other identifying information on Products or their packaging is prohibited. Reseller shall not remove, translate, or modify the contents of any label or literature on or accompanying the Products. Reseller shall not advertise, market, display, or demonstrate non-KONG products together with the Products in a manner that would create the impression that the non-KONG products are made by, endorsed by, or associated with KONG.

(f) ***Customer Service.*** Reseller and Reseller's sales personnel shall be familiar with the special features of all Products marketed for sale and must obtain sufficient Product knowledge to advise End Users on the selection and safe use of the Products, as well as any applicable warranty, guarantee, or return policy. Reseller shall be available to respond to customer questions and concerns both before and after sale of the Products and should endeavor to respond to customer inquiries promptly. Reseller and

Reseller's agents must represent the Products in a professional manner and refrain from any conduct that is or could be detrimental to the reputation of KONG. Reseller agrees to cooperate fully with KONG in any investigation or evaluation of such matters.

2. **Product Care and Quality Controls.** Reseller shall care for the Products as set forth herein.

(a) ***Product Storage and Handling.*** Reseller shall exercise due care in storing and handling the Products, store the Products in a cool (between forty (40) to eighty (80) degrees Fahrenheit), dry place, away from direct sunlight, extreme heat, and dampness, and adhere to any additional storage or handling guidelines specified by KONG from time to time.

(b) ***Product Inspection.*** Promptly upon receipt of the Products, Reseller shall inspect the Products for damage, broken seals, strong chemical odor, or other defect (collectively, "Defects"). If any Defect is identified, Reseller must not offer the Product for sale, and must promptly report the Defect to KONG at [qualityassurance@kongcompany.com](mailto:qualityassurance@kongcompany.com) (Note: this email address is strictly for the benefit of distributors, resellers and retailers, and shall not be provided by Reseller to an End User). Reseller shall inspect its inventory regularly for expired or soon-to-be expired Products and shall remove those Products from its inventory. Reseller shall not sell any Products that are expired.

(c) ***Recall and Consumer Safety.*** To ensure the safety and well-being of the End Users of the Products and their pets, Reseller shall cooperate with KONG with respect to any Product recall or other consumer safety information dissemination effort. Should Reseller learn of any incident that could reflect or indicate a safety concern associated with any Product, Reseller shall promptly report the incident or other information learned to KONG at [qualityassurance@kongcompany.com](mailto:qualityassurance@kongcompany.com) (Note: this email address is strictly for the benefit of distributors, resellers and retailers, and shall not be provided by Reseller to an End User).

3. **Warranty.** EXCEPT AS EXPRESSLY SET FORTH IN THE WARRANTY SECTION OF THE DOCUMENTS ACCOMPANYING THE PRODUCTS OR IN PRODUCT LITERATURE FURNISHED BY KONG CONTAINING PRODUCT WARRANTIES, AS IN EFFECT FROM TIME TO TIME (THE "STATEMENT OF WARRANTY"), KONG MAKES NO REPRESENTATION OR WARRANTY TO RESELLER OF ANY NATURE OR KIND REGARDING THE PRODUCTS. KONG DISCLAIMS ALL OTHER WARRANTIES TO RESELLER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARISING BY OPERATION OF LAW, COURSE OF DEALING, CUSTOM OF TRADE OR OTHERWISE. KONG'S SOLE OBLIGATION AND LIABILITY TO RESELLER IN RESPECT OF ITS WARRANTY AS SET FORTH IN THE STATEMENT OF WARRANTY SHALL BE, AT ITS OPTION, TO REPAIR OR REPLACE THE RELEVANT PRODUCT AT ITS COST. KONG SHALL NOT BE LIABLE TO RESELLER UNDER ANY CIRCUMSTANCES FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, LOSS OF SALES, OR LOSS OF PROFITS.

4. **Intellectual Property.** Reseller acknowledges and agrees that KONG owns all proprietary rights in and to the KONG brand, name, logo, trademarks, service marks, trade dress, copyrights, and other intellectual property related to the Products (collectively, the "KONG IP"). Reseller is granted a limited, non-exclusive, non-transferable, revocable license to use the KONG IP solely for purposes of marketing and selling the Products as set forth herein. This license will cease immediately upon termination of Reseller's status as an Authorized Reseller. KONG reserves the right to review and approve, in its sole discretion, Reseller's use or intended use of the KONG IP at any time, without limitation. All goodwill arising from Reseller's use of the KONG IP shall inure solely to the benefit of KONG.

5. **Termination.** In addition to all other available remedies, if Reseller violates this Reseller Policy, KONG reserves the right to terminate Reseller's status as an Authorized Reseller through written or electronic notice to Reseller. Upon termination of Reseller's status as an Authorized Reseller, Reseller shall immediately cease (i) selling the Products; (ii) acting in any manner that may reasonably give the impression that Reseller is an Authorized Reseller of KONG Products or has any affiliation whatsoever with KONG; and (iii) using all KONG IP.

6. **Availability of Injunctive Relief.** Notwithstanding anything to the contrary herein, if there is a breach or threatened breach of Sections 1 (Manner of Sale), 2 (Product Care and Quality Controls), 4 (Intellectual Property), or 5 (Termination) of this Reseller Policy, it is agreed and understood that KONG will have no adequate remedy in money or other damages at law. Accordingly, KONG shall be entitled to injunctive relief and other equitable remedies; provided, however, no specification in this Reseller Policy of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach or threatened breach of this Reseller Policy. No failure, refusal, neglect, delay, waiver, forbearance, or omission by KONG to exercise any right(s) herein or to insist upon full compliance by Reseller with Reseller's obligations herein shall constitute a waiver of any provision herein or otherwise limit KONG's right to fully enforce any or all provisions and parts thereof.

7. **Audit.** KONG reserves the right to audit and/or monitor Reseller's activities for compliance with this Reseller Policy, including, but not limited to, inspection of Reseller's facilities and records concerning the Products.

8. **Miscellaneous.** KONG reserves the right to update, amend, or modify this Reseller Policy at any time. Unless otherwise provided, such amendments will take effect immediately and Reseller's continued use, advertising, offering for sale, or sale of the Products, use of the KONG IP, or use of any other information or materials provided by KONG to Reseller will be deemed Reseller's acceptance of the amendments. If any provision of this Reseller Policy is held contrary to law, the remaining provisions shall remain valid. This Reseller Policy and any dispute arising under it shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado, without regard to its choice of law rules. In the event of a dispute over the terms or performance under this Reseller Policy, Reseller expressly submits to personal jurisdiction and venue in the state courts in Jefferson County, Colorado and the U.S. District Court for the District of Colorado.

9. **MAP Policy.** KONG has a unilateral Minimum Advertised Price Policy ("MAP Policy") that applies to all authorized resellers of KONG Products located in the United States of America. This Section is intended to inform you of the MAP Policy. It does not constitute consideration for any agreement between you and KONG, and does not separately constitute an agreement between you and KONG regarding the price you will charge your customers for the Products. KONG does not seek, nor will it accept, from Reseller any assurance of compliance with the MAP Policy.