



## **Section 2. Resale of Services**

(a) Company provides Services directly to End Users (“**End User**”) for Single License purposes only. Affiliate Partner may participate in the sale of these services, based on the price schedules listed on the Affiliate Partner Page, and as provided by Company, from time to time. At no time shall Affiliate Partner attempt to rebrand or repurpose Services, or purchase Services on behalf of End User. At all times, services shall be direct-billed by Company to End User.

(b) When additional explanation or interpretation is required, by Company, in order to fulfill production requirements, Affiliate Partner shall act as Agent on behalf of End User. Implementation of End User's requests shall be documented and interpreted / explained by Affiliate Partner directly with Company. Unless specifically agreed to in writing by Company, Company shall not engage directly with End User.

(c) Notwithstanding the foregoing, as between Company and Affiliate Partner shall be solely responsible for providing support to End User. Affiliate Partner will notify Company immediately, in the event that Affiliate Partner is unable to respond effectively to any End User request.

## **Section 3. Compensation**

(a) Affiliate Partner shall be paid compensation of 30% of the Launch Blueprint transaction amount, net of applicable taxes and any (yet to be established) discount applied at time of sale.

(b) Compensation shall be paid to Affiliate Partner sixty (60) days upon completion of sale to End User, net of applicable fees and taxes, and subject to any credit card processor holdover period.

**AFFILIATE PARTNER INFORMATION:**



(c) Affiliate Partner consents to the listing of its business name, address, phone number, and Page addresses in such Company advertising and promotional materials as Company may determine, in its sole discretion, including product literature and Company websites. During the term of this Agreement, Company may provide to Affiliate Partner promotional materials with respect to Services. Affiliate Partner may not use the promotional materials for any purpose other than advertising and promoting the Services to End Users, as intended. Notwithstanding anything to the contrary herein, Affiliate Partner may not distribute any Affiliate Partner-created promotional materials with respect to Company or the Services without Company's prior written approval of such materials.

(d) Affiliate Partner will, at its sole cost and expense, obtain all permits and licenses necessary in connection with its performance of this Agreement, and will comply with all applicable laws, rules and regulations in the performance of this Agreement. Without limiting the generality of the foregoing, Affiliate Partner will comply with all applicable export laws. Without limiting the foregoing, Affiliate Partner agrees that it will not knowingly export or re-export any Work Product or Services to any Country unless prior written consent is given.

(e) Affiliate Partner will, at all times, during the term of this Agreement maintain appropriate technical and organizational measures to protect any End User data that it collects, accesses or processes in connection with this Agreement against unauthorized or unlawful use, disclosure, processing or alteration. Affiliate Partner will act only on Company's instructions in relation to the collection, use, disclosure and processing of any such End User data, but in all instances in accordance with all applicable laws, rules and regulations.

### **Section 3. Ownership**

(a) As between Company and Affiliate Partner, all right. title and interest in and to the Services and associated Company promotional materials and documentation, including without limitation all copyrights, patent rights, trademark and service mark rights, trade secret rights and other intellectual property rights are and will remain the property of Company or their rightful providers, and such items may only be used by Affiliate Partner as expressly permitted hereunder. Affiliate Partner shall not remove, alter or otherwise modify any copyright, trademark or other notices of proprietary interest contained in the Services, Company promotional materials and/or documentation.

### **Section 4. Confidential Information**

(a) "**Confidential Information**" includes: (i) the Services; (ii) any personally identifiable data or information regarding any End User; (iii) any and all information disclosed by Company to Affiliate Partner, in whatever format, that is either identified as or would reasonably be understood to be confidential and/or proprietary; (iv) any notes, extracts, analyses or materials prepared by Affiliate Partner which are copies of or derivative works of Confidential Information or from which Confidential Information can be inferred or otherwise understood; and (v) the terms and conditions of this Agreement.

(b) Confidential Information does not include information received from Company that Affiliate Partner can clearly establish by written evidence: (i) is or becomes known to Affiliate Partner

from a third party without an obligation to maintain its confidentiality; (ii) is or becomes generally known to the public through no act or omission of Affiliate Partner; or (iii) is independently developed by Affiliate Partner without the use of Confidential Information.

(c) Affiliate Partner will make no use of Confidential Information for any purpose except as expressly authorized by this Agreement. Except as expressly provided in this Agreement, Affiliate Partner will not disclose Confidential Information to any third party and will protect and treat all Confidential Information with the same degree of care as it uses to protect its own confidential information of like importance, but in no event with less than reasonable care. Except as expressly provided in this Agreement, Affiliate Partner will not use, make or have made any copies of Confidential Information, in whole or in part, without the prior written authorization of Company.

(d) In the event that Affiliate Partner is required to disclose Confidential Information pursuant to law, Affiliate Partner will notify Company of the required disclosure with sufficient time for Company to seek relief, will cooperate with Company in taking appropriate protective measures, and will make such disclosure in a fashion that maximizes protection of the Confidential Information from further disclosure.

## **Section 5. Disclaimer of Warranties**

(a) EXCEPT FOR THE EXPRESS WARRANTIES, IF ANY, MADE TO THE END USER IN THE APPLICABLE SIVA CREATIVE INCORPORATED END USER AGREEMENTS, COMPANY MAKES NO OTHER WARRANTIES RELATING TO THE SERVICES, EXPRESS OR IMPLIED. COMPANY DISCLAIMS AND EXCLUDES ANY AND ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE AND NON-INFRINGEMENT. NO PERSON IS AUTHORIZED TO MAKE ANY OTHER WARRANTY OR REPRESENTATION CONCERNING THE SERVICES OR THE MEDIA ON WHICH SERVICES ARE SUPPLIED. AFFILIATE PARTNER WILL MAKE NO WARRANTY, EXPRESS OR IMPLIED, ON BEHALF OF SIVA CREATIVE INCORPORATED.

## **Section 6. Limitation of Liability**

(a) SIVA CREATIVE INCORPORATED'S AGGREGATE LIABILITY TO AFFILIATE PARTNER UNDER THIS AGREEMENT, WHETHER FOR BREACH OR IN TORT, IS LIMITED TO THE PRICE PAID BY AFFILIATE PARTNER FOR THE COPY OF THE PRODUCT WHICH GIVES RISE TO THE CLAIM. IN NO EVENT WILL SIVA CREATIVE INCORPORATED BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, USE, DATA OR OTHER ECONOMIC ADVANTAGE), HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF SIVA CREATIVE INCORPORATED HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR HEREIN FAILS OF ITS ESSENTIAL PURPOSE.



that its relationship with Company is that of an independent contractor, and  $\mathbb{E}^{-\tilde{a}|\tilde{a}c^{\wedge}\tilde{U}c\}^{\wedge}$  will not act in a manner that expresses or implies a relationship other than that of an independent contractor.

(b) Company and Affiliate Partner acknowledge and agree that: (i) Affiliate Partner is permitted to promote and sell products and services of companies other than Company; (ii) Affiliate Partner is not required to promote Company products or services exclusively; (iii) Affiliate Partner's decision to devote all or some of its business efforts to the products or services of any particular company is solely in the discretion of Affiliate Partner, and; (iv) Company reserves the right to make direct sales, and Affiliate Partner shall not be entitled to any compensation on any such sales. The company may appoint additional Resellers at any time.

## **Section 11. Term and Termination**

(a) This Agreement shall be effective for a term of one year from the Effective Date. It shall be automatically extended for further one-year terms unless either party gives written notice to the other at least 60 days before the expiration of the initial or any renewal term of the party's intent not to renew.

(b) Notwithstanding anything in this Agreement that may be interpreted to the contrary, Company may terminate this Agreement without cause and without liability upon 30 days' prior written notice to  $\mathbb{E}^{-\tilde{a}|\tilde{a}c^{\wedge}\tilde{U}c\}^{\wedge}$ . Either party may terminate this Agreement for any material breach of the Agreement that is not cured to the non-breaching party's satisfaction within 10 days of written notice that specifies the breach.

(c) Upon termination of this Agreement, Affiliate Partner will cease all advertising, marketing and resale of the Services. Termination of this Agreement will not effect either party's rights or obligations with respect to Services distributed by Affiliate Partner prior to the effective date of the termination.

(d) Neither party will be liable for any damages arising out of the termination of this Agreement in accordance with this Section 14. Affiliate Partner acknowledges and agrees that Company is not responsible for Affiliate Partner's dependence on revenues hereunder, and Affiliate Partner agrees to release, hold harmless and indemnify Company from any and all claims and liabilities relating to Affiliate Partner's revenues, financial forecasts or economic value that may result from any termination by Company of this Agreement as permitted hereunder.

(e) Expiration or termination of this Agreement will not relieve either party from its obligations arising hereunder prior to such expiration or termination. Rights and obligations which by their nature should survive will remain in effect after termination or expiration of this Agreement.

## **Section 12. Assignment**

(a) Neither this Agreement nor any rights or obligations of Affiliate Partner hereunder shall be assignable or transferable by Affiliate Partner, in whole or in part, by operation of law or otherwise, without the prior written consent of the Company. Any attempted assignment, subcontract or other transfer of this Agreement or any of Affiliate Partner's rights or obligations hereunder will be void ab initio and will be considered a material breach of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

## **Section 13. Notices**

(a) Any notices or other communications required or permitted hereunder shall be in writing and personally delivered at the principal business addresses designated at the beginning of this Agreement, or mailed by registered or certified mail, return receipt requested, postage prepaid, at the address set forth above, or to such other address or addresses as may be hereafter furnished by one party to the other party in compliance with the terms hereof. Notwithstanding the foregoing, Company may give notice of changes in Prices, Services offerings, Services descriptions, order procedures, delivery procedures and other routine events and procedures by way of printed materials or newsletter.

## **Section 14. Force Majeure**

(a) Company shall not be liable for failure or delay in performance of any of its obligations hereunder if such delay or failure to perform is caused by circumstances beyond its control. Affiliate Partner shall be required to accept any delayed shipment, lack of service, or delivery made within a reasonable time.

## **Section 15. Governing Laws**

(a) This Agreement shall be governed by and construed and enforced in accordance with the laws of the Province of Ontario, Canada. The parties agree that any legal action or proceeding with respect to this Agreement may be initiated only in the federal or provincial courts located in the Province of Ontario, within the County of Simcoe. By execution and delivery of this Agreement, the parties submit to and accept with regard to any such action or proceeding the exclusive jurisdiction of such courts. If any legal action or proceeding is initiated, the prevailing party shall be entitled to all attorney fees, court costs, and expenses in addition to any other relief to which such prevailing party may be entitled.

## **Section 16. Equitable Relief**

(a) Affiliate Partner acknowledges that any breach or threatened breach of this Agreement involving an unauthorized use of Confidential Information or Company intellectual property will result in irreparable harm to Company for which damages would not be an adequate remedy, and therefore, in addition to its rights and remedies otherwise available at law, Company will be entitled to seek injunctive or other equitable relief, as appropriate, and Affiliate Partner hereby waives the right to require Company to post a bond. If Company seeks injunctive or other equitable relief in the event of a breach or threatened breach of this Agreement by Affiliate Partner involving an unauthorized use of Confidential Information or Company intellectual property, Affiliate Partner agrees that it will not allege in any such proceeding that Company's remedy at law is adequate. If Company seeks any equitable remedies, it will not be precluded or prevented from seeking remedies at law, nor will Company be deemed to have made an election of remedies.

## **Section 17. Entire Agreement**

(a) This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes and terminates all other prior commitments, arrangements or understandings, both oral and written, between the parties with respect thereto. This Agreement may not be modified or amended except by an instrument in writing executed by each of the parties. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of either party, their agents or employees, but may be waived only by an instrument in writing signed by an officer of the waiving party. No waiver of any provision of this Agreement on one occasion shall constitute a waiver of any other provision or of the same provision on another occasion.