



ENGINEERED FOR ALTRUISM

[WWW.KNOWPLANS.COM](http://WWW.KNOWPLANS.COM)

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Leaders. Champions. S

*This offer is extended to kNOW Plans™ Early Adopter licensed promoters only.*

## **Engineered for Altruism**

HAVE YOU EVER DESIRED A DEPENDABLE OUTLET  
FOR SATISFYING YOUR ALTRUISTIC IMPULSES?

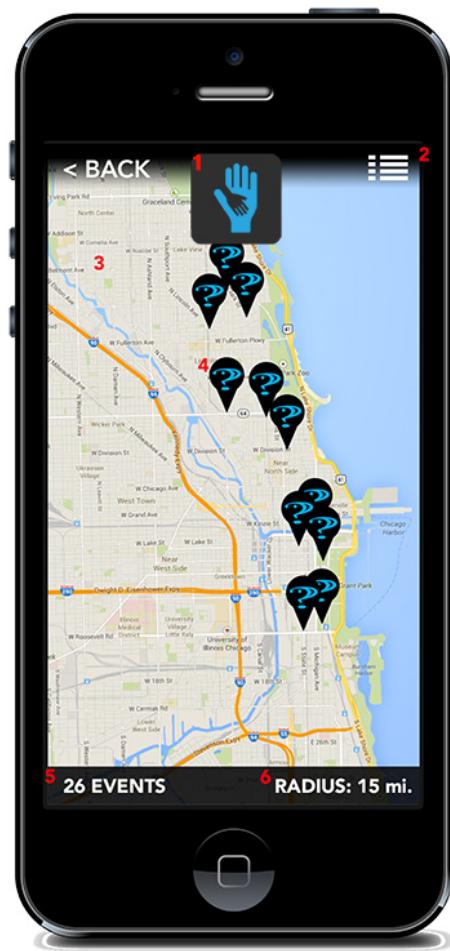


Let's face it. In a world where it is "survival of the fittest", many can argue that the idea of caring for others is reduced to temporary impulsive moments of empathy. Recall the contemplation of wanting to "do more" for your community when you saw a disturbing news briefing or walked past a homeless person rummaging for scraps in a recycle bin. kNOW Plans provides the perfect outlets to direct your caring impulses by making it easy for you to find community outreach events to patronize fundraisers and volunteer valuable time.

For more information: [support@knowplans.com](mailto:support@knowplans.com)

Community outreach non-profit organizations can register for a free Community Developer License to promote fundraisers and events in kNOW Plans' Impulse stream.

- 1) **Category Icon:** indicates that "Community Outreach" events are being displayed on the map
  - 2) **List View Button:** toggle between a list of events & map view
  - 3) **Street Map:** can also toggle to Satellite Map view
  - 4) **Event Location Pin:** indicates to location of a single Impulse Event
  - 5) **Event Count:** number of impulse events found within the current category and within the stated mile radius.
  - 6) **Mile Radius:** kNOw Plans™ will allow setting the range from a minimum of 500 feet to a max of 300 miles.



Our Trifected Impulse Data Ecosystem© ensures that local non-profit causes get increasingly great visibility for their recruitment and fundraisers. As more businesses that join the network we can provide more support to our invaluable existing community developers.

## Your First kNOW Plans Fundraiser

The action of reading this affiliate offer sets the reality of the beginning of the kNOW Planner Era<sup>1</sup> in your world. kNOW Plans™ is excited to announce our Early Adopter Promoter Affiliate Program which gives exclusive opportunity to our Community Developer Licensed Promoters to use the launch of the network as your first fundraising effort.

This offer is meant to reward community developers who constantly look for new ways promote their cause. You are the ones that can visualize how the kNOW Planner Era will virally radiate globally, growing from a “new thing” to be understood as new civil liberties for all. Potential this eminent needs to be shared. Your non-profit organization can raise funds during kNOW Plans Early Adopter Registration in the following manner:

**kNOW Plans™ installment into the lifestyle of the common citizen is such a game-changer that we felt it would be in the best interest of The Trifected Impulse Data Ecosystem<sup>2</sup> to offer our Early Adopter Licensed Promoters a 3% residual commission on Digital Drink Certificate redemptions at all businesses you refer to the network.**

**kNOW Plans™ will offer Early Adopter Licensed Promoters a 17% residual commission on every kNOW Planner you refer to the network that purchases a promoter license. For instance, you could receive \$25.50 for every referred Small Business Promoter License and \$85.00 for every referred Franchised Corporate Promoter License.**

**kNOW Plans™ will honor your 3%er lifestyle even after the License Fee increases. Early Adopter Licensed Promoters will continue to receive said residual commissions on referred businesses during Early Adopter Registration<sup>3</sup> for the lifetime of your status as a licensed promoter.**

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<sup>1</sup> kNOW Planner Era - The upcoming period of time when the Trifected Impulse Data Ecosystem will be at critical mass market saturation.

<sup>2</sup> The Trifected Impulse Data Ecosystem is the result of using kNOW Plans' Impulse Data to service a network of consumers, retail venues & special event promoters.

<sup>3</sup> Early Adopter Registration time is stated on the countdown timers at [www.kNOWPlans.com](http://www.kNOWPlans.com)

## GETTING STARTED

### **Step 1. Become a kNow Planner.**

- On the home screen, top menu click “Register” to create a free account.
- Once your account is created you will automatically be signed into your new account.

### **Step 2. Set your kNow Planner name**

- When you first create your account, a pop-up window will automatically prompt you to set your kNow Planner Name. You are not able to perform too many actions before doing so.
- If you have already set your name, you can change it whenever you desire by clicking “My Account” in the top menu when signed in.

## SENDING OFFICIAL BUSINESS INVITATIONS

All kNow Plans Early Adopters under our Affiliate Marketing agreement are able to secure credit for businesses and/or promoters that they invite into the kNow Plans Network. The main required information is the email address of the managing party of the referred business. Once a business you referred is labeled a “neuron” in your affiliate group. Just like neurons in our body, the more neurons in your group the stronger stimulation you shall feel in your residual rewards.

- 1. When signed In, click “MY ACCOUNT” in the top menu.**
- 2. Click “INVITE A BUSINESS” to trigger the Invitation Form. (img. 1)**
- 3. Check the status of your invitations via the Neurons table. (img. 2)**

img. 1: Invite a Business

The screenshot shows the 'MY ACCOUNT BETA' section of the kNOW PLANS website. At the top, it displays the user's name 'SirCharles99' and email 'charles@suns.com'. Below this are three buttons: 'BECOME A PROMOTER?', 'REGISTER A VENUE?', and 'INVITE A BUSINESS?'. The 'INVITE A BUSINESS?' button is circled with a red dashed line. To the right, there is a promotional box for 'DIGITAL DRINK CERTIFICATES®' featuring 'Buddy Bear' and 'Wet Wishes' for \$99,000.00 each. Below this is a 'MANAGED PAYMENTS' section where users can create a managed account for the United States. At the bottom, there are tabs for 'My Event History', 'My Registered Venues', and 'My Neurons', with 'My Neurons' being the active tab.

img. 2: Neurons Table

The screenshot shows the 'MANAGED PAYMENTS' section of the kNOW PLANS website. It includes fields for creating a managed account in the United States and accepting terms of service. Below this is a table titled 'My Neurons' with three entries:

Name	Email	Date Invited	Registered?
Bill Wethers	bwet@bmirmusic.com	6/06/2016	WAITING Resend Invite
Kanye West	yeezy@goodmusic.com	6/06/2016	WAITING Resend Invite
Barack Obama	obama@whitehouse.gov	6/06/2016	REGISTERED ON 6/08/2016

## AFFILIATE PARTNERSHIP AGREEMENT

**BY REGISTERING ON kNow Plans WEBSITE AND CLICKING THE "I AGREE" BUTTON TO THE TERMS OF THE AFFILIATE PARTNER AGREEMENT, AFFILIATE (AS THAT TERM IS DEFINED HEREIN BELOW) AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND THE KNOW Plans PARTNER PORTAL (INCLUDING ITS TERMS OF USE, TRADEMARKS, AND PRIVACY STATEMENT), WHICH ARE ALL INCORPORATED INTO AND FORM A PART OF THIS AGREEMENT (TOGETHER, THE "AGREEMENT"). AFFILIATE MUST ACCEPT THIS AGREEMENT BEFORE IT WILL BE CONSIDERED AN AFFILIATE PARTNER OR GRANTED ANY ACCESS TO THE VISION PARTNER PORTAL.**

### RECITAL

This Affiliate Partnership Agreement ("Agreement") effective as of the last date set forth below is by and between Michael Logic Administration LLC. ("MLA"), a Illinois corporation, with its principal place of business at 340 N Ogden St Chicago, IL 60411, and the business entity or individual that enters into this Agreement by electronic means ("Affiliate"). Each may be referred to as "Party" or collectively as the "Parties." Capitalized terms shall have the meaning defined in the Terms and Conditions.

WHEREAS, MLA is in the business of selling software licenses and related services and has established a written, contractual relationship with an authorized distribution or other reseller partner of MLA ("Partner") to market, generate sales leads, sell licenses and provide services to End Users in a territory as determined by MLA (the "Territory").

WHEREAS, Affiliate desires to market, generate sales leads, sell such licenses and provide services through a written contractual relationship with Partner and Partner desires to use the skills of Affiliate to market, generate leads, sell such licenses and provide services to End Users located in the Territory;

WHEREAS, MLA in accordance with the terms and conditions stated herein, authorizes Affiliate to market, generate sales leads, sell such licenses and provide services to End Users located within the Territory through a direct written, contractual relationship with Partner.

WHEREAS, Affiliate desires access to kNow Plans Promoter Portal in order to obtain online access to information about MLA products and services;

NOW THEREFORE, the parties agree to the terms and conditions stated herein.

## TERMS AND CONDITION

**1.0 DEFINITIONS.** As used in this Agreement, the following terms have the following respective meanings:

1.1 "Confidential Information" shall mean any information disclosed by one party to the other party under this Agreement that is identified in writing as confidential, or if orally or visually disclosed, is designated as confidential at the time of disclosure and in a written memorandum sent to the party receiving disclosure within one (1) month after disclosure summarizing the information sufficiently for identification. Notwithstanding the foregoing, the following shall be deemed to be Confidential Information unless specified in writing by the disclosing party as non-confidential: (a) the Licensed Software, (b) Licensed Software Copy, (c) Documentation, (d) the terms and pricing of this Agreement, (e) any program source code disclosed by a party, and (f) Proprietary Information. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is or becomes a matter of public knowledge through no fault of the receiving party; (ii) was rightfully received by the receiving party from a third party without restriction on subsequent disclosure or use; (iii) was known to the receiving party prior to its receipt from the disclosing party as evidenced by documentation in the receiving party's possession at the time of such disclosure; (iv) was independently developed by the receiving party, provided the receiving party can show that such development was accomplished by or for the receiving party without the use of or any reference to Confidential Information; (v) is furnished by the disclosing party to a third party without a similar confidentiality restriction or (vi) Is required to be disclosed pursuant to a judicial or governmental request, requirement or order, provided Recipient gives Discloser advanced written notice sufficient enough such that it may seek reasonable legal remedies to prevent or minimize such disclosure and /or obtain confidential treatment for its Confidential Information. The Receiving Party shall cooperate with the Disclosing Party in seeking such remedies

and/or confidential treatment, at the Disclosing Party's expense.

1.2 "Documentation" shall mean kNOw Plans' user manuals and other materials in printed form, provided by MLA which facilitate the use of the Licensed Software by end users.

1.3 "Effective Date" shall mean the date the Agreement is signed by MLA.

1.4 "End User" shall mean a licensee under the terms of a valid License Agreement. It shall not include resellers, brokers, agents or other intermediaries in the chain of distribution.

1.5 "Licensed Software" shall mean a software product as set forth on MLA's website, together with the documentation provided by MLA expressly for distribution to End Users.

1.6 "Loaned Software" shall mean a copy of the Licensed Software and Documentation that is not for resale which may be used by Affiliate for demonstration purposes.

1.7 "Partner Agreement" shall mean a valid Partner Agreement executed between the authorized representatives of MLA and Partner.

1.8 "Proprietary Information" shall mean the Licensed Software, Loaned Software, Documentation and all code, inventions, algorithms, know-how and ideas, and any derivative works thereof it obtains from MLA or the Licensed Software, Loaned Software and all other business, technical and financial information Affiliate obtains from MLA.

1.9 "Territory" shall mean the area set forth in the first page of this Agreement.

1.10 "MLA Named Accounts" shall mean an End-User, contained in MLA Solutions' Named Account List or otherwise specified in MLA Solutions' system as being a multi-site, multi- system account with End User sites located both in the Territory and/or elsewhere, technically complex, resource intensive and/or an application service

provider opportunity. This list may be updated at MLA Solutions' sole discretion at any time.

## **2.0 LICENSE GRANT, LOANED SOFTWARE**

2.1 Subject to the terms and conditions of this Agreement, MLA hereby grants to Affiliate a revocable, non-exclusive, non-transferable right and license to distribute and/or sublicense to End Users the Licensed Software purchased through an authorized MLA distribution or reseller partner. MLA also hereby grants Affiliate a personal, nonexclusive and nontransferable license to use the Loaned Software solely for the Purpose pursuant to the terms herein.

2.2 Affiliate shall not (i) disassemble, decompile, create derivative works from, or otherwise reverse engineer the Licensed Software or otherwise attempt to discover, use or transfer the source code, structure, algorithms, or ideas underlying the Licensed Software or the Loaned Software; (ii) rent, lease, or otherwise provide temporary access to the Licensed Software or the Loaned Software except as expressly provided for herein; (iii) take any action contrary to MLA's End User License Agreement ("EULA") contained within the Licensed Software or Loaned Software; (iv) remove any copyright, trademark or other proprietary notices from the Loaned or Licensed Software; (iv) copy or modify the Licensed Software or the Loaned Software; or (v) allow others to do any of the foregoing.

## **3.0 LEAD REGISTRATION AND PAYMENT**

3.1 Affiliate shall provide MLA with the name, address,

contact and solution details of prospective End Users to whom it has promoted the Licensed Software ("Lead"). MLA shall have ten (10) days to accept or reject the Lead

submitted by Affiliate. MLA may, at its sole discretion, reject Affiliate's Lead if materially incomplete information is submitted, if MLA or another of MLA's Partners has already licensed the Licensed Software to such End User, if MLA is actively promoting the Licensed Software to such End User or for any other reasonable business purpose.

3.2 MLA shall not be liable to Partner, Affiliate or any third party for any conflicting lead registrations.

3.3 Any and all payments for any marketing, leads, sales, services or otherwise shall be paid solely by Partner to Affiliate. In no event shall MLA be liable to Partner or Affiliate for any payments made or to be made to Affiliate, or any other third party.

## **4.0 REGULATIONS**

4.1 Affiliate shall comply with the U.S. Foreign Corrupt Practices Act (regarding, among other things, payments to government officials, political parties, and candidates for public office).

4.2 Affiliate shall comply with all applicable U.S. export laws, regulations, and controls. Affiliate may not export or re-export, transfer, divert or disclose, directly or indirectly, including via remote access the Licensed Software except as authorized by United States law and the laws of the jurisdiction in which the Licensed Software was obtained. In particular, but without limitation, the Licensed Software may not be exported or re-exported (i) into (or to a national or resident of) any U.S. embargoed country or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders. Affiliate shall not knowingly provide the Licensed Software to a member located in, under control of, or a national or resident of any such country or on any such list. Affiliate may not distribute the Licensed Software to sub-distributors, affiliates or to any End User who may re-export the Licensed Software in violation of this Section 4.2 herein.

## **5.0 PROPRIETARY RIGHTS; CONFIDENTIAL INFORMATION**

5.1 Except as expressly and unambiguously allowed herein, Affiliate agrees to hold in confidence and not use or disclose any Confidential Information and shall similarly bind its employees to this obligation in writing. Affiliate's nondisclosure obligation shall not apply to information it can document and is generally available to the public (other than through breach of this Agreement).

5.2 A party receiving Confidential Information agrees that it is claimed to be a trade secret of the other party, not to disclose or use any Confidential Information for any purpose except as necessary and consistent with the terms of this Agreement, to protect the disclosed Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent unauthorized use, dissemination or publication of the Confidential Information as such party uses to protect its own confidential information of a like nature, to limit the use of and access to such Confidential Information to such employees who have a need to know such Confidential Information, and that it shall promptly notify the other party in writing of any unauthorized disclosures and/or use thereof. Such notice shall include a detailed description of the circumstances of the unauthorized disclosure or use and the parties involved therewith.

5.3 Neither party shall permit anyone to reproduce or copy any Confidential Information except as expressly authorized hereunder.

5.4 Both parties acknowledge that any use or disclosure of the other party's Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the non-disclosing party irreparable damage for which remedies other than injunctive relief may be inadequate, and the non-disclosing party shall be entitled to seek from a court of competent jurisdiction, injunctive or other equitable relief. The terms and provisions of this Section 5 shall survive termination of this Agreement for a period of five (5) years.

5.5 Affiliate may not use MLA's trade names, trademarks, and service marks in any manner unless approved in writing by an authorized representative of MLA

## **6.0 VISION PARTNER PORTAL TERMS OF USE**

6.1 kNOw Plans Partner Portal (the "Portal") access is provided by MLA and available only to entities and persons over the age of legal majority who can form legally binding agreement(s) under applicable law.

6.2 Scope of Terms of Use. These Terms of Use shall govern Affiliates use of the Portal and all applications, software, data, information and services (collectively, "Services") available on the Portal, except to the extent such Services are the subject of a separate agreement. MLA grants to Affiliate a limited, nontransferable, nonsublicensable, revocable license to (a) access and use only the Portal, Content and Services only in the manner presented by MLA, and (b) access and use the MLA computer and network services offered within the Portal (the "MLA Systems") only in the manner expressly permitted by MLA. Except for this limited license, MLA does not convey any interest in or to the MLA Systems, information or data available via the MLA Systems (the "Information"), Content, Services, Portal or any other MLA property by permitting Affiliate to access the Portal.

6.3 Modifications. Any aspect of the Portal may be changed, supplemented, deleted or updated without notice at the sole discretion of MLA.

6.4 Privacy Notice. The MLA Privacy Notice (located on MLA's website) governs the use of information collected from or provided by Affiliate at or through the Portal. With respect to any individual whose personal information is provided by Affiliate to MLA, Affiliate represents to MLA that Affiliate has obtained all necessary consents for the processing of such personal information contemplated by the services MLA is using and by the MLA Privacy Notice, including the transfer of such data to the United States or other countries whose laws may not provide the same level

of protection for the personal data as the laws of the country of origin of such individual.

**6.5. License and Ownership.** Any and all intellectual property rights ("Intellectual Property") associated with the Portal and its contents (the "Content") are the sole property of MLA, its affiliates or third parties. The Content is protected by copyright and other laws in both the United States and other countries. Elements of the Portal are also protected by trade dress, trade secret, unfair competition, and other laws and may not be copied or imitated in whole or in part. All custom graphics, icons, and other items that appear on the Portal are trademarks, service marks or trade dress ("Marks") of MLA, its affiliates or other entities that have granted MLA the right and license to use such Marks and may not be used or interfered with in any manner without the express written consent of MLA. Except as otherwise expressly authorized by these Terms of Use, Affiliate may not copy, reproduce, modify, lease, loan, sell, create derivative works from, upload, transmit, or distribute the Intellectual Property of the Portal in any way without MLA's or the appropriate third party's prior written permission. Except as expressly provided herein, MLA does not grant any express or implied rights to MLA's or any third party's Intellectual Property.

**6.6 Restrictions on Use of the Portal.** In addition to other restrictions set forth in these Terms of Use, Affiliate agrees that:

- (a) Affiliate shall not disguise the origin of information transmitted through the Portal.
- (b) Affiliate will not place false or misleading information on the Portal.
- (c) Affiliate will not use or access any service, information, application or software available via the Portal in a manner not expressly permitted by MLA.
- (d) Affiliate will not input or upload to the Portal any information which contains viruses, Trojan horses, worms, time bombs or other computer programming routines that are intended to damage, interfere with,

intercept or expropriate any system, the Portal or Information or that infringes the Intellectual Property (defined below) rights of another.

(e) Certain areas of the Portal are restricted.

(f) Affiliate may not use or access the Portal or the MLA Systems or Services in any way that, in MLA's judgment, adversely affects the performance or function of the MLA Systems, Services or the Portal or interferes with the ability of authorized parties to access the MLA Systems, Services or the Portal.

(g) Affiliate shall not frame or utilize framing techniques to enclose any portion or aspect of the Content or the Information, without the express written consent of MLA.

**6.7 Submissions.** MLA does not accept ideas, concepts, or techniques for new services or products through the Portal ("Comments"). If such Comments are received, Affiliate acknowledges that (a) they will not be considered confidential or proprietary, (b) MLA and its affiliates are under no obligation to keep such information confidential, and (c) MLA will have an unrestricted, irrevocable, world-wide, royalty-free right to use, communicate, reproduce, publish, display, distribute, and exploit such Comments in any manner it chooses.

**6.8 Termination.** Affiliate agrees that MLA, in its sole discretion, may terminate or suspend Affiliate's use of the Portal, the MLA Systems, Information, Services and Content at any time and for any or no reason in its sole discretion, even if access and use continues to be allowed to others. Upon such suspension or termination, Affiliate shall immediately (a) discontinue use of the Portal, and (b) destroy any copies Affiliate may have made of any portion of the Content. Accessing the Portal, the MLA Systems, Information or Services after such termination, suspension or discontinuation shall constitute an act of trespass. Affiliate agrees that MLA shall not be liable to Affiliate or any third party for any termination or suspension of Affiliate's access to the Portal, the MLA Systems, Information and/or the Services.

6.9 Written Document. Affiliate may preserve these Terms of Use in written form by printing them for Affiliate's records, and hereby waives any other requirement that these Terms of Use be evidenced by a written document.

## **7.0 LIMITED LIABILITY, WARRANTY, INDEMNITY**

**7.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS OR LOST DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, OR FOR LOSS OR CORRUPTION OF DATA OR INTERRUPTION OF USE IN RELATION TO THIS AGREEMENT, WHETHER BASED IN WARRANTY, CONTRACT, TORT, OR OTHER LEGAL THEORY EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NO ACTION ARISING OUT OF OR INCIDENTAL TO TRANSACTIONS HEREUNDER MAY BE BROUGHT AGAINST VISION MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION AROSE. IN ANY CASE, VISION'S ENTIRE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO AMOUNT RECEIVED BY VISION DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE. THIS SECTION 7 DOES NOT LIMIT LIABILITY FOR BODILY INJURY OF A PERSON, WHICH IS DETERMINED TO BE CAUSED BY VISION'S GROSS NEGLIGENCE.**

**7.2 EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL, BARGAINED FOR BASES OF THIS AGREEMENT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN**

## **THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.**

**7.3 LICENSED SOFTWARE WARRANTY.** MLA warrants to the original End User that for one (1) year from the Effective Date (the "Warranty Period") the Licensed Software will perform substantially in accordance with the Documentation. MLA does not warrant that the Licensed Software or any portion thereof is error-free. This limited warranty does not cover loss or damage for any a) modification or repair of the Licensed Software by Partner, Affiliate, End User or any third party; (b) failure or incompatibility of the Licensed Software with hardware or other software not supplied by MLA; or (c) accident, neglect, failure of electric power, storage or use in improper or adverse environmental conditions, misuse, negligence, catastrophe, operator error, or causes other than ordinary and intended commercial use. If End User, Partner or Affiliate notifies MLA of the material nonconformance of the Licensed Software with the Documentation during the Warranty Period, and if MLA confirms such non-conformance, MLA's entire liability and End User's sole and exclusive remedy shall be, at MLA's option to correct or provide a bug fix, error correction, or work-around for documented reproducible nonconformance, or replace the Licensed Software.

**7.4 LOANED SOFTWARE WARRANTY.** LOANED SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER ORAL, WRITTEN, EXPRESS, OR IMPLIED. THE ENTIRE RISK AS TO THE RESULTS AND PERFORMANCE OF THE LOANED SOFTWARE IS ASSUMED BY PARTNER AND AFFILIATE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY VISION SHALL CREATE A WARRANTY OR AMEND THIS "AS IS" WARRANTY. Affiliate is solely responsible for the selection of the Loaned Software to achieve its intended results and the Loaned Software is not eligible for indemnification by MLA.

**7.5 THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**7.6 Indemnity by MLA.** MLA agrees, at its own expense, to indemnify, defend and hold Affiliate harmless from and against any and all damages and costs or, at MLA's option settle, any claim, suit, or proceeding that the then current Licensed Software or Documentation used within the scope of this Agreement directly infringes any United States patent or copyright provided that MLA is notified in writing immediately after Partner or Affiliate receives notice of such claim of infringement and MLA is provided with sole control of both the defense of any action on such claim and all negotiations for its settlement and compromise.

**7.7 Indemnity by Affiliate.** Affiliate shall indemnify MLA against any damage, loss, liability or expense (including attorneys fees) ("Damages") that MLA may incur (i) with respect to and to the extent caused by any negligent act or omission by, or willful misconduct of, Affiliates employees or agents or (ii) as a result of (a) any warranty, condition, representation, indemnity or guarantee granted by Affiliate, (b) any omission or inaccuracy in Affiliates advertisements and promotional materials that relate to the Licensed Software (other than any materials provided by MLA), (c) any modification of or addition to the Licensed Software made by Partner, Affiliate or End User not approved by MLA. This Section shall not be construed to limit or exclude any other claims or remedies which MLA may assert under this Agreement or by law.

**7.8** In the event that the then current Licensed Software is held by a court of competent jurisdiction to constitute an infringement or its use is enjoined, or in the opinion of MLA, the Licensed Software is likely to become the subject of such claim, MLA may at its option (a) procure for an End User the right to continue using such Licensed Software or (b) replace such

Licensed Software with other equivalent, non-infringing software or modify the Licensed Software to make it non-infringing; or (c) terminate this Agreement and provide a credit for such Licensed Software in the amount of the License Fees actually paid prorated on a three (3) year, straight-line depreciation basis.

**7.9** This Section 6 states MLA's entire obligation to Affiliate and End Users regarding infringement and indemnification.

**7.10** Only an authorized officer of MLA may make modifications to this warranty, indemnity or additional warranties binding on MLA, which modifications or additional warranties must be in writing.

**8.0 INDEPENDENT CONTRACTORS.** MLA and Affiliate are independent contractors and shall have no authority to bind the other. Neither this Agreement nor Affiliate's participation in any MLA program shall be deemed to create a partnership, agency, joint venture, or other similar arrangement, and the employees, agents, or representatives of one party shall not be deemed to be employees, agents, or representatives of the other party. Affiliate acknowledges that the use of the term "partner" in the program name, materials, and administration does not constitute or imply a partnership or any other fiduciary relationship.

**9.0 ASSIGNMENT.** Affiliate may not assign this Agreement without MLA's prior written consent. MLA may freely assign this Agreement in connection with any sale or transfer of all or substantially all of MLA's business. This assignment shall be fully binding and enforceable as against all permitted assignees and successors in interest. Any assignment in violation of this provision is null and void.

**10.0 TERM AND TERMINATION.**

**10.1** Unless terminated earlier as provided herein, this Agreement shall have a term extending from the Effective Date and continuing for a period of twelve (12) months

(“Initial Term”). Thereafter, this Agreement shall renew for additional one (1) year terms unless terminated earlier as provided herein. This Agreement shall automatically terminate upon termination of the Partner Agreement between Partner and MLA. This Agreement may be terminated by either party upon thirty (30) days prior written notice to the other party. Affiliate understands that after the termination specified above, it shall have no right whatsoever to continue as an Affiliate of MLA (regardless of any undocumented continuation of the relationship with MLA) and that it shall be entitled to no compensation in connection with such termination.

**10.2 EACH PARTY UNDERSTANDS THAT THE RIGHTS OF TERMINATION  
HEREUNDER ARE ABSOLUTE. NEITHER  
PARTY SHALL INCUR ANY LIABILITY OR  
COMPENSATION OBLIGATION  
WHATSOEVER FOR ANY DAMAGE  
(INCLUDING WITHOUT LIMITATION,  
DAMAGE TO OR LOSS OF GOODWILL OR  
INVESTMENT), LOSS OR EXPENSES OF  
ANY KIND SUFFERED OR INCURRED BY  
THE OTHER (OR FOR ANY  
COMPENSATION TO THE OTHER)  
ARISING FROM OR INCIDENT TO ANY  
TERMINATION OF THIS AGREEMENT  
WHETHER OR NOT SUCH PARTY IS  
AWARE OF ANY SUCH DAMAGES, LOSS  
OR EXPENSES.**

10.3 Termination is not the sole remedy under this Agreement and, whether or not termination is effected, all other remedies shall remain available.

## **11.0 GENERAL**

**11.1 Amendment and Waiver.** Except as otherwise expressly provided herein, any provision of this Agreement may be amended and the observance of any provision of this Agreement may be waived (either generally or in any particular instance and either retroactively or prospectively) only with the written consent of the parties.

### **11.2 Governing Law and Jurisdiction.**

**11.2.1 Governing Law.** This Agreement shall be governed by and construed under the laws of the State of California and the United States without regards to conflict of laws provisions thereof and without regard to the United Nations Convention on Contract for the International Sales of Goods. In the event that the Uniform Computer Information Transactions Act (“UCITA”) or any form thereof is enacted as law in any state with jurisdiction over this Agreement, the Parties agree to exclude the application of UCITA or any form thereof to any dispute arising out of or in connection with this Agreement.

**11.2.2 Jurisdiction.** Unless otherwise elected by MLA in writing for a particular instance (which MLA may do at its option), the sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and U.S. federal courts having within their jurisdiction the location of MLA’s principal place of business. Both parties consent to the jurisdiction of such courts and agree that process may be served in the manner provided herein for giving of notices or otherwise as allowed by the state of California or the U.S. federal law. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorney’s fees.

**11.3 Headings.** Headings and captions are for convenience only and are not to be used in the interpretation of this Agreement.

**11.4 Notices.** All notices required to be sent under this Agreement shall be sufficient only if in writing and personally

delivered, delivered by a major commercial rapid delivery courier service with delivery verification, or mailed by certified or registered mail, return receipt requested, to a party at the address set forth in the Cover Sheet or as amended by notice in accordance with this subsection. Notices shall be deemed given upon receipt or refusal.

**11.5 Entire Agreement.** This Agreement supersedes all proposals, oral or written, all negotiations, conversations, or discussions between or among parties relating to the subject matter of this Agreement and all past dealing or industry custom.

**11.6 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original and each of which together shall constitute a single instrument.

**11.7 Severability.** If any provision of this Agreement is held to be illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

**11.8 No Third Party Rights.** This Agreement does not create any rights in any third parties, except assigns, successors or heirs expressly permitted hereunder.