**AGREEMENT OF ONLINE PROMOTION**

This Agreement of Online Promotion (the “Agreement”) is effective [DATE],

**BETWEEN: [PROMOTION PROVIDER NAME]** (the "Promotion Provider"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

 [YOUR COMPLETE ADDRESS]

**AND: [COMPANY NAME]** (the "Company"), a company organised and existing under the laws of the [STATE/PROVINCE] of [COUNTRY], with its head office located at:

 [COMPLETE ADDRESS]

Pursuant to this Agreement, the Promotion Provider will provide various promotions to the Company to assist the Company in promoting its network of Internet sites and related services. Accordingly, the parties hereby agree as follows:

1. **BACKGROUND**
	1. **The Company**

The Company operates a network of Internet sites including but not limited to content pertaining to [SPECIFY] including the site located at http://www.[SPECIFY].com.

* 1. **The Promotion Provider**

The Promotion Provider operates a search and aggregation "portal" site on the World Wide Web.

1. **DEFINITIONS**

"Above the Fold" means that a particular item on a Web page is viewable by the User on a computer screen at an [NUMBER] x [NUMBER] pixels resolution without having to scroll down when the Site is first launched.

"Agreed Channels" means all of the Targeted Impressions plus up to five additional channels, as mutually agreed. Such additional channels shall initially be [SPECIFY TOPICS].

"Company Marks" means any trademarks, trade names, service marks and logos that may be delivered by the Company to the Promotion Provider expressly for inclusion in the Promotions.

"Company Sites" means the Internet sites operated by the Company and promoted on the Promotion Provider through the Promotions, including the Internet sites expressly referenced in Section 3, together with any mirror sites, co-branded sites and successors thereto.

"Content Portal" means an area on the [SPECIFY] page that is designed to be programmed with content from a third-party content provider such as the Company.

"[SPECIFY] Centre" means a Resource Centre within the Promotion Provider's [SPECIFY] Channel that is focused on [SPECIFY] issues and is linked to directly from the front door of the Promotion Provider Site and from within the [SPECIFY] Channel.

"Impression" means the display of a Promotion for any Company Site on any Promotion Provider Site in accordance with this Agreement.

"Products" means any product or service sold on or through the Company Sites.

"Promotions" means banners, buttons, text links, branded text, Content Portals, links within email newsletters distributed by the Promotion Provider and other promotions displayed on any Promotion Provider Site, including the specific types of promotions referenced in Section 3.

"Referral Users" are any users that access the Company Site through a Promotion. All Referral Users will be tagged and tracked by the Company during the first and any subsequent visit to the Company Site via the Promotion Provider Site for the purpose of revenue sharing as referenced in Section 5.3.

"Resource Centre" means a collection of related Web pages, links, portals and other resources on the Promotion Provider Site focused on a particular subject matter.

"The Promotion Provider Box" means a search box with the Promotion Provider's full Internet search functionality and containing icons for and links to the Promotion Provider Site. Each Promotion Provider Box will take users directly to the Promotion Provider Site to view the results of their search query.

"The Promotion Provider Results Page" means a successful search results page on the Promotion Provider Site that is served by the Promotion Provider *in re*sponse to a search inquiry through the Promotion Provider Box on the Company Site.

"The Promotion Provider Marks" means any trademarks, trade names, service marks and logos delivered by the Promotion Provider to the Company expressly for inclusion on a Company Site.

"The Promotion Provider Site" means the search and aggregation "portal" site operated by the Promotion Provider at “http://www.[SPECIFY].com”, together with any co-branded editions of such site that have been or may be developed for the Promotion Provider's third-party distribution partners and licensees.

"Targeted Impressions" means (a) any Impressions within the [SPECIFY] Channels; (b) other Impressions that appear in context within editorial content or tools provided by the Company (e.g. a [SPECIFY] feature); (c) Impressions within email newsletters distributed pursuant to Section 3.3; (d) Impressions within Promotion Provider, as contemplated by Section 3.4; and (e) Keyword banner Impressions delivered pursuant to Section 3.5.

"Term" means the term of this Agreement, as set forth in Section 5.

"User" means a user of the Promotion Provider Site.

1. **PROMOTIONS**
	1. **Promotions within the [SPECIFY] Channel**
		1. During the Term, the Company will have the exclusive right to programme the Content Portal on the front page of the [SPECIFY] Centre with [SPECIFY] related content from its [SPECIFY] site or any successor Web site thereto, as well as [SPECIFY] related content from the [SPECIFY].com Site, subject to the reasonable discretion of the Promotion Provider producer.
		2. If the parties agree, the Promotion Provider may include other Promotions for [SPECIFY] throughout the [SPECIFY] Centre and may provide additional opportunities for the Company to provide content from the [SPECIFY] site for display within the [SPECIFY] Channel.
		3. Despite the foregoing or anything herein to the contrary, the parties mutually agree that the Company's content will appear in the [SPECIFY] Centre [NUMBER] days after the Promotion Provider gives notice to the content providers currently in such centre, which notice will be given within [NUMBER] days following the execution of this Agreement.
	2. **Promotions for [SPECIFY]**

The Promotion Provider shall, subject to the Promotion Provider's discretion include Promotions for the Company's [SPECIFY] site throughout the [SPECIFY] Channels, and additional opportunities may be provided by the Promotion Provider for the Company to provide content from the [SPECIFY] site for display on the Promotion Provider Site, including working with the Promotion Provider to create a [SPECIFY].

* 1. **Newsletters**

If the Promotion Provider develops an area where Users can register for e-mail newsletters from third party content providers, the Promotion Provider will provide the Company with a reasonable opportunity to offer a newsletter to Users through such area.

* 1. **Promotions for Promotion Provider**

The Company's [SPECIFY] content and links will be included as an initial default option for the Promotion Provider's [SPECIFY] personalised home page, meaning that initial default links for [SPECIFY] will automatically appear on the [SPECIFY] start page for each first time User. All Company content linked to from within [SPECIFY] will be hosted in its entirety by the Promotion Provider.

**3.5 Keyword Banners.**

The Company will receive [NUMBER] % of the banner advertisements served on search results pages that result from searches that include any of the [NUMBER] search terms identified in Appendix A.

**3.6 Labels**

Links to the Company Sites included within the Promotion Provider search results will include a [SPECIFY] label, under the discretion of the Promotion Provider.

**3.7 The Promotion Provider may provide standard Promotions**

Throughout the Promotion Provider Site in an amount sufficient to meet the minimum impressions in Section 3.8. The Company may request any reasonable reallocation of the location and type of the Promotions subject to the Promotion Provider's then-current inventory availability. The Promotion Provider shall not charge the Company any extra fees for such requested reallocations of Promotions if they are equivalent in value to those that would otherwise be provided by the Promotion Provider hereunder.

**3.8 Minimum Impressions**

* + 1. At least [NUMBER] Impressions must be delivered by the Promotion Provider during the first year of the Term. The Promotion Provider will deliver [NUMBER] additional Impressions at no additional charge on a run-of-site basis.
		2. At least [NUMBER] Impressions must be delivered by the Promotion Provider during the second year of the Term. The Promotion Provider will deliver [NUMBER] additional Impressions at no additional charge on a run-of-site basis.
		3. In each year of the Term, at least [NUMBER] % of the minimum number of Impressions will be Targeted Impressions. Of the remaining minimum number of Impressions, at least half will be displayed within Agreed Channels. The remaining Impressions may be untargeted and may appear anywhere within the Promotion Provider Site (for example, run-of-site banner advertisements). Despite these minimum requirements, the Promotion Provider will endeavour to deliver a larger percentage of Targeted Impressions during the Term, subject to the Promotion Provider's discretion.
		4. If the Promotion Provider does not deliver the required number of Impressions during any year of the Term; the Promotion Provider will have an additional [NUMBER] months to deliver such Impressions (together with any other Impressions otherwise required during such [NUMBER] month period hereunder) on the Promotion Provider Site. Such Impressions delivered during this [NUMBER] - month period shall be allocated to the appropriate category, (*i.e.* targeted or untargeted) to fulfil the impressions guarantee pursuant to Section 3.8.3.
		If the Promotion Provider does not deliver the required number of Impressions during the additional [NUMBER] month period, the Promotion Provider will have a second [NUMBER] month period to deliver such Impressions (together with any other Impressions otherwise required during such [NUMBER] month period hereunder) on the Promotion Provider Site or any other Internet site operated by [COMPANY NAME] or the [COMPANY NAME] or their affiliates, subject (in the case of sites other than the Promotion Provider Site) to the Company's prior consent, which will not be unreasonably withheld, and provided that such substituted Impressions are substantially equivalent in value.
1. **EXCLUSIVITY**
	1. Content provided by [SPECIFY] (individually, a "Competitor") will not constitute, in the aggregate, more than [NUMBER] % of the total content provided on the front page of the [SPECIFY] Centre; the aforementioned notwithstanding, each Competitor may provide not more than [NUMBER] % of the total content on that page. In addition, the Promotion Provider will agree not to receive any payment for such content. Promotions for [SPECIFY] will not constitute, in the aggregate, more than [NUMBER]% of the total number of Promotions displayed within the [SPECIFY] of the Promotion Provider.
	2. Content provided by [SPECIFY] (individually, a "Competitor") will not constitute, in the aggregate, more than [NUMBER] % of the total content provided on the front page of the [SPECIFY] Centre; the aforementioned notwithstanding, each Competitor may provide not more than [NUMBER] % of the total content on that page. In addition, the Promotion Provider will agree not to receive any payment for such content. Promotions for [SPECIFY] will not constitute, in the aggregate, more than [NUMBER] % of the total number of Promotions displayed on the front page of the [SPECIFY].
	3. For purposes of this Section 4, the percentage of content provided on a page will be measured based on the total area of the page on which such content appears. In the event that the Promotion Provider plans to offer any Competitor an editorial or promotional opportunity, other than standard media buys that are up to [NUMBER] months, or aggregation and selection of content, provided such content is not paid for, in connection with the [SPECIFY] Centre, the Promotion Provider agrees to provide the Company with such opportunity first. Notwithstanding the foregoing, the Company will, at all times during the Term of this Agreement, be the preferred provider of content and promotions throughout those areas of the Promotion Provider Site which are set forth herein, the [SPECIFY] Centre.
2. **PAYMENTS**
	1. **First Year**

The Company will pay the Promotion Provider a total of [AMOUNT] with respect to the first year of the Term, as follows:

* + 1. The Company will pay the Promotion Provider a [NUMBER] time development fee of [AMOUNT] for content integration payable within [NUMBER] days after execution of this Agreement;
		2. The Company will pay the Promotion Provider an annual slotting fee of [AMOUNT] for carriage of the Promotions within the Promotion Provider Site, payable in [NUMBER] equal monthly instalments, within [NUMBER] days of each month; and
		3. The Company will pay the Promotion Provider a partnership fee of [AMOUNT], payable in the following instalments by the [NUMBER] day of each calendar month:

5.1.3.1. [AMOUNT] per month during months [NUMBER]-[NUMBER] of the Term

 5.1.3.2 [AMOUNT] per month during months [NUMBER]-[NUMBER] of the Term

* 1. **Second Year**

The Company will pay the Promotion Provider a total of [AMOUNT] with respect to the second year of the Term, as follows:

* + 1. The Company will pay the Promotion Provider an annual slotting fee of [AMOUNT] for carriage of the Promotions within the Promotion Provider Site, payable in [NUMBER] equal monthly instalments, within [NUMBER] days of each month; and
		2. The Company will pay the Promotion Provider a partnership fee of [AMOUNT] payable in equal monthly instalments of [AMOUNT] by the [NUMBER] day of each calendar month.
	1. **Revenue Sharing**

The Company will pay to the Promotion Provider an amount equal to [NUMBER] % of all gross margin earned by the Company from sales made through the Company's [SPECIFY] site to Referral Users. Such revenue sharing will be payable monthly, simultaneously with delivery of the monthly reports referenced in Section 8.2, which will support the Company's calculation of the required payment for the preceding month.

* + 1. Required payments hereunder will be made by cheque or wire transfer of immediately available funds as reasonably directed by the Promotion Provider.
		2. Notwithstanding the foregoing: if the Promotion Provider has not delivered: (i) [NUMBER] impressions on or before the date that is [NUMBER] months from this Agreement then the Promotion Provider and the Company will meet in good faith within [NUMBER] days of that time to re-negotiate the agreement; if no agreement is reached after that time, the Company may terminate the agreement, or (ii) [NUMBER] impressions (based on the proportions described in section 3), on or after the date that is [NUMBER] months from the date of this agreement the Company may terminate the agreement.
		3. The Promotion Provider Results Pages. The Promotion Provider will pay the Company a standard monthly fee based on the daily average number of the Promotion Provider Results Pages delivered to users. Such fee will be calculated as follows: (1) divide the total number of the Promotion Provider Results Pages for the month by the number of days in the month, (2) divide the result by [NUMBER], (3) multiply the result by the appropriate Guaranteed Daily CPM as set forth below, and (4) multiply the result by the number of days in the month. For example, if the Company's the Promotion Provider Box produces a total of [NUMBER] The Promotion Provider Results Pages for [MONTH], the monthly fee for [MONTH] will be calculated by the following formula: ((([NUMBER] / [NUMBER]) / [NUMBER]) \* [NUMBER]) = [AMOUNT] = [AMOUNT]. Thus, the Promotion Provider will pay the Company [AMOUNT] for [AMOUNT] the Promotion Provider Results.

Average Number of Daily the Promotion Provider Results Pages Guaranteed Daily CPM [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER] [NUMBER]

1. **DESIGN OF THE PROMOTIONS AND OPERATION OF THE COMPANY SITE AND THE PROMOTION PROVIDER SITE**
	1. The Promotion Provider and the Company will create an "implementation team," which will include an account manager designated by the Promotion Provider and an appropriate representative of the Company, to oversee the creation and delivery of the Promotions contemplated by this Agreement.
	2. The Company will design any graphics and other materials required for the Promotions and will supply digital copies of such materials to the Promotion Provider. Such materials will be designed and delivered in accordance with the Promotion Provider's technical and editorial guidelines as defined in Appendix B, as may be changed from time to time and communicated by the Promotion Provider to the Company. The Promotion Provider will provide reasonable assistance to the Company in connection with the design and delivery of such materials.
	3. On each page of a Company Site to which Users are linked from the Promotions, the Company will display a button or other graphical link to be provided by the Promotion Provider, which links back to the default the Promotion Provider Site. All such links on the Company Sites will be displayed Above the Fold. The Promotion Provider agrees not to specifically target (separately from the general database of the Promotion Provider Users) any Users who access the Promotion Provider Site through such links.
	4. Both parties will be responsible for ensuring that each URL provided to the other party for use as set forth in this Agreement, takes the User to the appropriate area within the respective site and that each party's site functions with reasonable reliability and in a commercially reasonable manner throughout the Term. In particular, both parties agree that each party's respective site will comply with the following performance standards throughout the Term:

		1. Each party's site will be operational and fully functional in all material respects at least [PERCENTAGE %] of the time during any [NUMBER] day period.
		2. The average time required to start displaying the HTML on a page of a party's site after a link from the other party's will not exceed a daily average of [NUMBER] seconds, and the average time required to deliver an entire page of a party's site over the open Internet shall not exceed a daily average of [NUMBER] seconds. For measurements required in this Paragraph, both parties may assume standard [SPECIFY] connectivity to the Internet.
		3. Without limiting the effect of Paragraphs 6.4.1 and 6.4.2 above, the Company will provide to Users coming to the Company Sites from the Promotions at least the same level of service as is offered to Users coming directly to such Company Sites.
		4. The Company Sites shall not, to the best of the Company's knowledge:
			1. contain defamatory or libellous material or material which discloses private or personal matters concerning any person, without such person's consent;
			2. permit to upload any messages, data, images or programmes which are illegal, contain nudity or sexually explicit content or are, by law, obscene, profane or pornographic; or
			3. permit to upload any messages, data, images or programmes that would knowingly or intentionally (which includes imputed intent) violate the property rights of others, including unauthorised copyrighted text, images or programs, trade secrets or other confidential proprietary information, or trademarks or service marks used in an infringing fashion.

6.4.5 If any of the performance standards set forth above are not met by either party, the other party may, after notifying the violating party, remove any or all links to such party’s, at the non-violating party's sole discretion. If a party's site fails to operate fully and functionally in any material respect for any period of [NUMBER] or more consecutive hours, even if otherwise in compliance with the performance standards, the other party may, after notifying the violating party, remove any or all links to such violating party's site, at the non-violating party's sole discretion,

6.4.6 until such time as the violating party notifies the non-violating party that such site has resumed acceptable operation. These remedies are for each party's editorial purposes and in no way limit either party's ability to terminate this contract or pursue any other remedies hereunder in the event the performance standards set forth herein are not met.

1. **TERMINATION**
	1. The term of this Agreement (the "Term") will begin on the date hereof and will end on the second anniversary of the date hereof, unless otherwise terminated or extended as provided in this Agreement.
	2. If either party commits a material breach of its obligations hereunder that is not cured within [NUMBER] days after notice thereof from the non-breaching party, the non-breaching party may terminate this Agreement at any time by giving written notice of termination to the breaching party (or [NUMBER] days in the event of non-payment).
	3. The provisions of Sections 12, 13 and 14 and any payment obligations arising prior to termination will survive any termination of this Agreement.
2. **REPORTING**
	1. Within [NUMBER] days after the end of each calendar month during the Term, the Promotion Provider will provide to the Company standard advertising reports, as generally offered by the Promotion Provider, with respect to the Promotions.
	2. Within [NUMBER] days after the end of each calendar month during the Term, the Company will provide to the Promotion Provider a report indicating (a) the number of Users who access any Company Site by clicking on a link embedded within a Promotion delivered by the Promotion Provider hereunder, in the aggregate and for each Company Site, and (b) the total revenues and gross profit earned by the Company from sales made through the Company's [SPECIFY] site to such Users. The Company will obtain such data by tagging each User who accesses any Company Site through a Promotion using a cookie or other similar technology, as agreed upon by the parties.
3. **USER DATA**

The Company will be the sole owner of any information that the Company collects from Users through the Company Sites, and the Promotion Provider will be the sole owner of any information that the Promotion Provider collects from Users through the Promotion Provider Site. Notwithstanding the foregoing and subject to the provisions of Section 14.8, each party will have the unrestricted right and licence to use any information provided by the other party pursuant to Section 7.

1. **COMPANY INTEGRATION OF THE PROMOTION PROVIDER**
	1. The Company will feature a Promotion Provider Box as a part of the front page of each of the Company Sites and throughout the Company Sites as appropriate, the design, size and positioning of which will be mutually agreed upon by the Promotion Provider and the Company, provided that the Promotion Provider Box appear Above the Fold. The Promotion Provider will pay the Company for the Promotion Provider Results Pages as provided in Section 5.6, above.
	2. The Promotion Provider Results Pages delivered to users as a result of a query from the Company's the Promotion Provider Box will be a co-branded edition of the Promotion Provider Service located at “www.[SPECIFY].com”.
	3. On each page of the Promotion Provider Site to which Users are linked from the Company Site, the Promotion Provider shall display a mutually agreed upon button or other graphical link to be provided by the Company, which links back to the default Company Site. All such links on the Promotion Provider Site will be displayed Above the Fold. The Company agrees not to specifically target (separately from the general database of Company Users) any Users who access the Company Site through such links.
2. **TRADEMARK LICENSES**
	1. The Company hereby grants to the Promotion Provider a non-exclusive, royalty-free license, effective throughout the Term, to use, display and publish the Company Marks solely within the Promotions. Any use of the Company Marks by the Promotion Provider must comply with any reasonable usage guidelines communicated by the Company to the Promotion Provider. Nothing contained in this Agreement will give the Promotion Provider any right, title or interest in or to the Company Marks or the goodwill associated therewith, except for the limited usage rights expressly provided above. The Promotion Provider acknowledges and agrees that the Company is the sole owner of all rights in and to the Company Marks.
	2. The Promotion Provider hereby grants to the Company a non-exclusive, royalty-free license, effective throughout the Term, to use, display and publish the Promotion Provider Marks solely within the Company Sites as provided in Section 8 above. Any use of the Promotion Provider Marks by the Company must comply with any reasonable usage guidelines communicated to the Company by the Promotion Provider from time to time. Nothing contained in this Agreement will give the Company any right, title or interest in or to the Promotion Provider Marks or the goodwill associated therewith, except for the limited usage rights expressly provided above. The Company acknowledges and agrees that the Promotion Provider is the sole owner of all rights in and to the Promotion Provider Marks.
3. **RESPONSIBILITY FOR THE PRODUCTS**

The Company acknowledges and agrees that the Company will be solely responsible for any claims or other losses associated with or resulting from the marketing or operation of the Company Sites or the offer or sale of any Products by the Company or through the Company Sites. The Promotion Provider is not authorised to make, and agrees not to make, any representations or warranties concerning the Company Sites or the Products, except to the extent (if any) contained within Promotions delivered to the Promotion Provider by the Company or approved by the Company.

1. **MUTUAL INDEMNIFICATION**
	1. **Indemnification by the Promotion Provider**

The Promotion Provider will indemnify and hold the Company harmless from and against any costs, losses, liabilities and expenses, including all court costs, reasonable expenses and reasonable attorney's fees (collectively, "Losses") that the Company may suffer, incur or be subjected to by reason of any legal action, proceeding, arbitration or other claim by a third party, whether commenced or threatened, arising out of or as a result of any claims of infringement or misappropriation of intellectual property rights, or arising from the operation of the Promotion Provider Site.

* 1. **Indemnification by the Company**

The Company shall indemnify and hold the Promotion Provider harmless from and against any Losses that the Promotion Provider may suffer, incur or be subjected to by reason of any legal action, proceeding, arbitration or other claim by a third party, whether commenced or threatened, arising out of or as a result of

13.2.1 the use of the Company Marks by the Promotion Provider in accordance with this Agreement;

13.2.2 any content provided by the Company to the Promotion Provider for display on the Promotion Provider Site;

13.2.3 the operation of the Company Sites; or

13.2.4 the offer or sale of any Products by the Company or through the Company Sites.

* 1. **Indemnification Procedures**

If any party entitled to indemnification under this Section (an "Indemnified Party") makes an indemnification request to the other, the Indemnified Party will permit the other party (the "Indemnifying Party") to control the defence, disposition or settlement of the matter at its own expense; provided that the Indemnifying Party shall not, without the consent of the Indemnified Party enter into any settlement or agree to any disposition that imposes an obligation on the Indemnified Party that is not wholly discharged or dischargeable by the Indemnifying Party, or imposes any conditions or obligations on the Indemnified Party other than the payment of monies that are readily measurable for purposes of determining the monetary indemnification or reimbursement obligations of Indemnifying Party.

The Indemnified Party shall notify the Indemnifying Party promptly of any claim for which the Indemnifying Party is responsible and shall cooperate with the Indemnifying Party in every commercially reasonable way to facilitate defence of any such claim; provided that the Indemnified Party's failure to notify the Indemnifying Party shall not diminish the Indemnifying Party's obligations under this Section except to the extent that the Indemnifying Party is materially prejudiced as a result of such failure. An Indemnified Party shall at all times have the option to participate in any matter or litigation through counsel of its own selection and at its own expense.

1. **MISCELLANEOUS**
	1. **[SPECIFY] Channel**

If, during the Term, the Promotion Provider creates a [SPECIFY] Channel or a [SPECIFY] resource centre, the Promotion Provider will negotiate in good faith with the Company, for at least [NUMBER] days before negotiating with any third party, concerning the terms on which the Company could provide content or receive branding within such channel or resource centre. Should the Promotion Provider and the Company agree on such terms then, as part of that agreement,

* + 1. content provided by [SPECIFY] will not constitute, in the aggregate, more than [PERCENTAGE %] of the total content provided within the [SPECIFY] Channel or [SPECIFY] resource centre, as the case may be;
		2. content provided by [SPECIFY] will not constitute individually more than [PERCENTAGE %] of the total content in the [SPECIFY] Channel or [SPECIFY] resource centre, and
		3. promotions for [SPECIFY] will not constitute, in the aggregate, more than [PERCENTAGE %] of the total number of Promotions displayed within the [SPECIFY] Channel or [SPECIFY] resource centre, provided that each company's promotions may not constitute more than [PERCENTAGE %] of the total Promotions displayed within the [SPECIFY] Channel or [SPECIFY] resource centre; and
		4. the Company shall at all times during the term of the agreement be the preferred provider of content and promotions throughout such [SPECIFY] Channel.

**14.2 LIMITATION OF DAMAGES**

NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, EXCEPT FOR ANY CLAIM FOR INDEMNIFICATION ARISING UNDER SECTION 13 ABOVE, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR DAMAGES IN EXCESS OF THE TOTAL PAYMENTS REQUIRED TO BE MADE UNDER THIS AGREEMENT.

* 1. **Assignment**

The Promotion Provider may not assign this Agreement, except

* + 1. in connection with the transfer of substantially all of the business operations of the Promotion Provider (whether by asset sale, stock sale, merger or otherwise);
		2. to an affiliate of the Promotion Provider; or
		3. with the written permission of the Company, which will not be unreasonably withheld. The Company may not assign this Agreement, unless there is written permission of the Promotion Provider, which will not be unreasonably withheld or delayed.
	1. **Entire Agreement**

This Agreement constitutes and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior oral or written agreements. This Agreement may be altered if it is agreed upon in writing by both parties. Each party acknowledges and agrees that the other has not made any representations, warranties or agreements of any kind, except as expressly set forth herein.

**14.5 Audit Rights**

Each party will have the right to engage an independent third party to audit the books and records of the other party relevant to the quantification of the Promotions, not more than [NUMBER] per year during the term of this Agreement, and upon not less than [NUMBER] days written notice and during normal business hours, and the other party will provide reasonable cooperation in connection with any such audit. The party requesting the audit will pay all expenses of the auditor unless the audit reveals an underpayment by the other party of more than [PERCENTAGE %], in which case the other party will reimburse all reasonable expenses of the auditor.

**14.6 Applicable Law**

This Agreement will be construed in accordance with and governed by the laws of the [COUNTRY/PROVINCE], without regard to principles of conflicts of law.

**14.7 Confidentiality**

In connection with the activities contemplated by this Agreement, each party may have access to confidential or proprietary technical or business information of the other party, including without limitation

* + 1. proposals, ideas or research related to possible new products or services;
		2. financial information; and
		3. the material terms of the relationship between the parties (collectively, "Confidential Information"). Each party will take reasonable precautions to protect the confidentiality of the other party's Confidential Information, which precautions will be at least equivalent to those taken by such party to protect its own Confidential Information.

Except as required by law or as necessary to perform under this Agreement, neither party will knowingly disclose the Confidential Information of the other party or use such Confidential Information for the benefit of any third party. Each party's obligations in this Section with respect to any portion of the other party's Confidential Information shall terminate when the party seeking to avoid its obligation under this Section can document that:

* + - 1. it was in the public domain at or subsequent to the time it was communicated to the receiving party ("Recipient") by the disclosing party (“Discloser”) through no fault of Recipient;
			2. it was rightfully in the Recipient's possession free of any obligation of confidence at or subsequent to the time it was communicated to the Recipient by the Discloser;
			3. it was developed by employees or agents of the Recipient independently of and without reference to any information communicated to the Recipient by the Discloser;
			4. it was communicated by the Discloser to an unaffiliated third party free of any obligation or confidence; or
			5. the communication was *in re*sponse to a valid order by a court or other governmental body, was otherwise required by law or was necessary to establish the rights of either party under this Agreement.
	1. **Press Release**

A press release regarding the business relationship contemplated in this Agreement may be released as long as the other party has agreed on the content of the release either verbally or in writing. In addition, each party will provide an appropriate quote from one of its senior executive officers for use in the other party's release.

* 1. **Illustrations**

All Illustrations attached to the Appendices are for illustrative purposes only and shall not be deemed to bind, obligate or restrict either party from making reasonable changes in such party's discretion.

* 1. **Attorney Fees**

The cost of legal action taken under this Agreement or to interpret any provision of this Agreement shall be awarded to the prevailing party.

* 1. **Dispute Resolution**

In the event that any dispute arises hereunder, the parties agree that prior to commencing litigation, arbitration, or any other legal proceeding, each party shall send an officer of such party to negotiate a resolution of the dispute in good faith at a time and place as may be mutually agreed. Each officer shall have the power to bind its respective party in all material respects related to the dispute.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorised representatives as of the date first written above.

PROMOTION PROVIDER COMPANY

Authorised Signature Authorised Signature

Print Name and Title Print Name and Title

**ANNEXURE A**

[SPECIFY KEYWORDS]

**ANNEXURE B**

The Promotion Provider Editorial Guidelines for Partner Content (as of [EFFECTIVE DATE])

Editorial Suggestions

Provide content that is inherently informative or useful in itself, rather than strictly a promotion for content on your site. Feel free to include as many links to your site as you want, but they should be related to the content you are providing. An exception would be your logo link, which should link to your site's main homepage.

Editorial Requirements

All content or other materials provided to the Promotion Provider must adhere to the Promotion Provider's editorial guidelines. These guidelines include, without limitation, a prohibition on direct links from the applicable site to pornographic or illegal material, and a prohibition on the advertising of firearms or pornographic products or services from within the Promotion Provider. The Promotion Provider prohibits any obscene, indecent, or profane language. The Promotion Provider requires that all content should be factually correct.

Links in your content must only point to the site from which the content was harvested. Links must take the user directly to the content, which they describe. For example, links must not lead users through advertisements on the way to the content. No interstitial advertisements. No pop-up advertisements.

Content must be relevant to the Topic. It must also be relevant to the point and time. This does not mean that content must be updated at a particular rate. However, whatever content is live at any given time must be completely relevant. The content must include your brand, either as text or a graphic. A logo graphic should contain the brand name, and the ALT text for the graphic must give the brand name.

The content linked to from your page must be free to the Promotion Provider users, and initial registration or subscription must not be required. However, you are free to use content pages on your own site (not hosted by the Promotion Provider) to upsell subscription or registration-required content. (Example: "For more headlines, click here to subscribe.")

Advertisements within your content are not allowed. Your information must be content, not an advertisement for your site or brand or any other site/brand.

General Notes & Standards

The Promotion Provider is willing to discuss modifications to the policies stated in these documents; however, all exceptions must be approved by the Promotion Provider Executive Producer. The Promotion Provider may change these Content Page specifications and requirements at any time, with reasonable notice given to the Provider.