

AFFILIATE AGREEMENT

Last Updated: August 8, 2022

This Agreement ("Agreement") is made and entered into by and between you, the undersigned affiliate ("AFFILIATE", "Party" or "Parties"), an independent contractor engaged in the business of performing the services contemplated by this Agreement, and ScerIS, Inc. ("SCERIS", "Party" or "Parties"). AFFILIATE may enter this Agreement either as an individual sole proprietor or a corporate entity. This Agreement will become effective on the date it is accepted regardless of whether you are eligible to, or ever do, perform any Contracted Services.

IMPORTANT: PLEASE REVIEW THIS AGREEMENT CAREFULLY. IN PARTICULAR. BY ACCEPTING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD ALL OF THE TERMS AND HAVE TAKEN THE TIME AND SOUGHT ANY ASSISTANCE NEEDED TO COMPREHEND THE CONSEQUENCES OF ACCEPTING THIS AGREEMENT.

RECITALS:

SCERIS is a company that develops software and provides systems and services to businesses and government agencies.

AFFILIATE is an independent provider of customer acquisition services, authorized to conduct the services contemplated by this Agreement.

PURPOSE OF THIS AGREEMENT:

SCERIS and AFFILIATE (referred to as the "Parties") are forming a relationship to cooperate in the development of the SCERIS business which may include any or all the following activities:

- sale of SCERIS products and services
- the development of SCERIS affiliate network.

The Parties agree as follows:

1 DEFINITIONS:

- 1.1. Prospect: An individual or titled position within an Organization that either has authority to acquire SCERIS Products and/or Services or is in a position to substantially influence others within the same Organization to acquire SCERIS Products and/or Services.
- 1.2. Organization: The Prospect's employer company.
- 1.3. Customer: An Organization that has entered into a sales agreement with SCERIS.
- 1.4. Product: Systems, Services and Document Conversion Services.
- 1.5. Systems: SCERIS software, third-party software, hardware, professional services and support services, designed to satisfy the Customer's needs.
- 1.6. Sponsored Affiliate: An individual or company introduced to this program by AFFILIATE that becomes an affiliate of SCERIS.
- 1.7. Sponsored Strategic Sub-Affiliate: An individual or company introduced to this program by the Sponsored Affiliate that becomes an affiliate of SCERIS.

2 TERRITORY: AFFILIATE's rights under this Agreement are limited to the United States and Canada. SCERIS reserves the right to appoint other AFFILIATEs, AFFILIATEs, OEM AFFILIATEs, resellers, distributors, value-added resellers, corporation AFFILIATEs, employees and the like without restriction as to the number and location serving this Territory.

3 TERM: The term ("Term") of this Agreement will commence on the Effective Date and will continue for one (1) year. This Agreement will renew automatically for additional one (1) year periods, unless terminated as defined in Section 12 (TERMINATION AND RESIDUAL RIGHTS UPON TERMINATION).

4 RESPONSIBILITIES OF THE PARTIES:

- 4.1. During the term of this Agreement and in accordance herewith, each Party agrees to use its commercially reasonable best efforts to support the other Party on applicable opportunities.
- 4.2. AFFILIATE may identify and register Prospects with SCERIS and shall facilitate meetings between Prospects and SCERIS. SCERIS will provide technical and business process demonstrations, assist in system configurations and pricing the Product, package presentation proposals and prepare contracts for accepted proposals.
- 4.3. All pricing, price premiums, discounts and special programs that affect the basis of AFFILIATE compensation calculations are determined exclusively by SCERIS, and SCERIS reserves the right, at its sole discretion, to determine prices for Products.
- 4.4. SCERIS reserves the right, at its sole discretion to determine if the Prospect or Prospect's employer represents a viable opportunity, and if not SCERIS may decline the opportunity to present SCERIS capabilities including any and all of the aforementioned activities including demonstrations, system configurations, pricing, proposal development and contract development.
- 4.5. AFFILIATE may recruit and sponsor companies and individuals into the affiliate program. AFFILIATE will be compensated for sponsored alliance activity as described in this Agreement. SCERIS is responsible for evaluating any company or individual introduced by the AFFILIATE. SCERIS reserves the right, at its sole discretion to accept or reject any such sponsored affiliate.
- 4.6. SCERIS reserves the right, at its sole discretion, to refuse the account of any Organization, or to discontinue dealing with any Customer if, in SCERIS's opinion, the Organization's or Customer's credit or business practices are not satisfactory, or if proposed business requirements are not suitable for SCERIS' capabilities or resources.

- 4.7. SCERIS does not make any assurances that AFFILIATE'S Prospects or Organizations will turn into contracts.
- 4.8. SCERIS is responsible for delivering the Products represented by approved contracts and for billing the customer according to the terms of customer agreements. SCERIS does not guarantee that approved contracts will result in billings to the customer.
- 4.9. SCERIS is responsible for calculating AFFILIATE's compensation, updating the compensation calculation based on purchase adjustments made by the Customer during delivery of the Products and providing communication to the AFFILIATE about such calculations.
- 4.10. SCERIS's obligation hereunder to AFFILIATE is to timely pay AFFILIATE compensation according to the terms herein.
- 4.11. The Parties will at-all-times avoid misleading or unethical business practices relating to their marketing and demonstration of the Product and comply with all laws and regulations applicable to the conduct of their respective businesses as they relate to the relationship created hereunder.
- 4.12. The Parties agree to conduct business so as not to decrease the goodwill and reputation of the other Party, its products, services and trademarks. Neither Party will willfully undertake any action intended to impair or disrupt the other Party's relationship with its customers, end-users, licensees, resellers or other business relationships.
- 4.13. AFFILIATE shall complete a W-9 form.
- 4.14. All activities conducted by AFFILIATE under this Agreement shall be conducted according to Federal laws and according to State laws of the state(s) having jurisdiction, or if none, the Commonwealth of Massachusetts.
- 4.15. All Account Registrations of the AFFILIATE prior to this Agreement shall be governed by the terms of the agreement in place at the time of the acceptance of the registration by SCERIS.

5 AFFILIATE PROHIBITIONS: AFFILIATE is specifically prohibited from:

- 5.1. Contacting independently any SCERIS Customer, Prospect, business partner, VAR or OEM of SCERIS that has been disclosed to the AFFILIATE regarding products or services that compete with those offered by SCERIS,
- 5.2. Warranting or guaranteeing the performance or results of any SCERIS product or service,
- 5.3. Accepting cash, checks made out to AFFILIATE or any other form of payment from the SCERIS Customer for SCERIS related transactions,
- 5.4. Accepting gratuities, compensation or any gifts from any of SCERIS' Customers without specific prior written permission from SCERIS for each such gratuity, compensation or gift. The exception to this is the SCERIS Customer that was a customer of the AFFILIATE prior to this Agreement, and such gratuities, compensation or any gifts from SCERIS Customers are unrelated to anything involving SCERIS's activity with the Customer, or the AFFILIATE's activity with the Customer regarding SCERIS business,
- 5.5. Paying gratuities, compensation or providing gifts to the Prospect or relatives of the Prospect without specific prior written permission from the Prospect's employer, unless such gifts are usual and customary (such as gifts to relatives or friends for holiday, birthday or anniversary gifts).
- 5.6. Benefitting from a sale in which the AFFILIATE has a conflict of interest or is employed by the Prospect, Organization or Customer, or is managing sales to vendors, employees or customers of its employer, without specific written permission from the AFFILIATE's employer authorizing such activities and subsequent payments for compensation by SCERIS to the AFFILIATE, which authorization is subject to verification by SCERIS,
- 5.7. Using SCERIS stationery, letterhead or marketing material in any way for matters not related to SCERIS business, or in a manner that could in any way harm or bring disrepute to SCERIS. Such inappropriate use may cause irreparable harm to SCERIS and cause substantial damages, the amount of which could be exceedingly difficult or impossible to calculate.

6 COMPENSATION TO AFFILIATE FOR COMPLETED SALES AND RECRUITING: SCERIS and AFFILIATE shall share the proceeds from Product sales to Customers secured by AFFILIATE (General Revenue Sharing). AFFILIATE compensation is calculated in accordance with the percentages in the table below. Compensation for sales to any government department, agency or AFFILIATE is one-fifth of the percentages presented in the following table:

	Compensation % Sales Facilitation
SYSTEMS	
1. ETCETERA Software – Standard Software License, Software Maintenance or Subscription (if installed on client infrastructure or on SCERIS Cloud – separate from MSaaS pricing)	25%
2. Third Party Application Software (non SCERIS produced software)	5%
3. Professional Services and Support Services	10%
4. Hardware, Operating Systems, Databases, Firewalls, VPNs, Third Party Software Maintenance, Hardware Maintenance, Reimbursed Travel Expenses, Shipping and Sales Tax	EXCLUDED
5. Reimbursed Travel Expenses and Tax	EXCLUDED
OUTSOURCING SERVICES	
6. Document Conversion Services, Business Process Outsourcing, Print Services, Print Design Services	10%
HOSTING SERVICES	
7. MSaaS Hosted Offerings	25%
8. Hybrid and Private Hosting Services and Cloud Based File Storage (Infrastructure as a Service - exclusive of SCERIS Software, includes hosting services, operating system software subscription and Baas/DRaaS as applicable).	10%

- 6.1 The date of the Initial Contract between SCERIS and the Customer establishes the Initial Contract Date between SCERIS and the Customer for purposes of AFFILIATE compensation calculations.
- 6.2 SCERIS and AFFILIATE share revenue for invoices submitted by SCERIS to a Customer for two years after the Initial Contract Date that are subsequently paid by the Customer with good funds. General Revenue Sharing fees become an obligation for SCERIS at the end of the month in which payment is received by SCERIS. General Revenue Sharing fees are based on net receipts (payment received less credits or debits taken by Customers). Payment of fees to AFFILIATE for General Revenue Sharing payments received during a month shall be made by the 10th day following month's end.
- 6.3 For placements made by AFFILIATE with SCERIS as a Sponsored Affiliate, the AFFILIATE is paid a service fee equal to 20% (twenty percent) of the General Revenue Sharing compensation paid to AFFILIATE's Sponsored Affiliate. SCERIS calculates compensation owed to AFFILIATE's Sponsored Affiliate(s) monthly and shall calculate and pay service fees to AFFILIATE within five days following the date that General Revenue Sharing fees are paid to their Sponsored Affiliate(s).
- 6.4 The AFFILIATE is paid a service fee equal to 10% (ten percent) of the General Revenue Sharing compensation paid to the Sponsored Sub-Affiliate. Sponsored Sub-Affiliate(s) are associates placed by AFFILIATE's Sponsored Affiliate(s). SCERIS calculates compensation owed to Sponsored Sub-Affiliate(s) monthly and shall calculate and pay service fees to AFFILIATE within 10 days following the date that General Revenue Sharing fees are paid to their Sponsored Sub-Affiliate(s).
- 6.5 Fees paid to the AFFILIATE are in US Dollars.
- 6.6 Fees paid to the AFFILIATE are direct deposited in AFFILIATE's bank account at a U.S. based bank. AFFILIATE shall provide SCERIS with bank name, address, bank routing code and account number for payments for services described in this section.
- 6.7 SCERIS reserves the right to allow multiple registrations for the same Prospect and their employer organization. In the event SCERIS allows multiple registrations, SCERIS, in its sole discretion, shall determine how the Compensation amount will be divided among the registering parties.

- 7 **ACCOUNT REGISTRATIONS:** A meeting booked by the AFFILIATE between SCERIS and a Prospect and accepted by SCERIS will serve as the registration of a Prospect. An active Prospect is one expressing an ongoing interest, validated monthly, in purchasing a ScerIS Product. Such validation will hold the registration of the Prospect by the AFFILIATE for up to six months.

The registration of Prospects that become inactive or decline to buy will immediately expire.

- 7.1 In the event that a Prospect is currently registered, SCERIS will evaluate the opportunity to include AFFILIATE in the sales process and determine AFFILIATE's further involvement, if any, with this Prospect. AFFILIATE agrees to non-circumvent SCERIS with a competitor to SCERIS for Prospects that are previously registered at SCERIS.
- 7.2 To have a valid Registration, AFFILIATE must complete and submit a SCERIS New Prospect Meeting Form.
- 7.3 AFFILIATE will be notified by SCERIS of accepted or rejected Registrations and provide online meeting invitations.

The registration of any Prospect that declines to enter into a purchase agreement will immediately terminate.

- 8 **DISPUTES ABOUT PROSPECT REGISTRATIONS:** SCERIS reserves the right to make final decisions regarding disputes about registrations. AFFILIATE agrees to accept SCERIS's decisions with an attitude of trust. AFFILIATE may make one written appeal using SCERIS's Appeal Form and will not challenge the final decision in any manner, whether by arbitration or litigation or any other manner.

- 9 **NATURE OF THE RELATIONSHIP CREATED BY THIS AGREEMENT:** The Parties shall act as independent AFFILIATEs and the employees of one shall not be deemed the employees of the other. Nothing contained in this Agreement shall be interpreted as constituting either Party as the agent of the other Party, as conferring upon either Party the power or authority to bind the other Party in any transaction with third parties or as creating a formal business organization of any kind. To comply with the Internal Revenue Code, AFFILIATE is considered a direct seller and not to be treated as an employee of SCERIS for federal, state and local tax purposes. SCERIS will not withhold any monies for any federal, state or local tax authorities from amounts paid to AFFILIATE pursuant to this Agreement, unless it is so instructed by any taxing authority, in which case such amounts may be withheld from AFFILIATE'S compensation and paid directly to such authority. Payment of any such taxes is the sole responsibility of AFFILIATE.

Except for issues required by federal or state law, AFFILIATE shall be completely free from the will and control SCERIS. AFFILIATE shall:

- 9.1 not be eligible for nor receive SCERIS paid insurance benefits, disability income, vacation pay, holiday pay, expense reimbursement, workers compensation, pension benefits and profit-sharing benefits.
- 9.2 be solely responsible for all AFFILIATE expenses including but not limited to travel, entertainment, office expense, telephone, educational expense, dues, subscriptions and licenses, and shall receive no reimbursement from SCERIS.
- 9.3 not be required to, and shall not incur, any expenses on behalf of SCERIS under this Agreement. Any expense incurred by AFFILIATE shall be the sole responsibility of AFFILIATE.
- 9.4 provide his/her/its own telephone, stationery, supplies, transportation, and all other facilities which AFFILIATE may deem necessary.
- 9.5 not be required to:
 - 9.5.1 Submit to detailed SCERIS direction
 - 9.5.2 Follow up and report on business leads
 - 9.5.3 Keep appointments with Prospects arranged by SCERIS
 - 9.5.4 Attend SCERIS-sponsored training sessions
 - 9.5.5 Produce a minimum "quota"
 - 9.5.6 Attend regularly scheduled sales meeting
 - 9.5.7 Purchase any items such as memorandums, brochures or other materials

10 INDEMNIFICATION:

- 10.1 AFFILIATE agrees to indemnify and hold harmless SCERIS for any claims, liabilities, damages or causes of action, known or unknown, accruing from any source as the result of AFFILIATE's activities.
 - 10.1.1 AFFILIATE agrees to indemnify and hold harmless SCERIS for any legal or other expenses reasonably incurred by SCERIS insofar as losses, claims, damages, expenses, liabilities or actions arise out of, or are based upon any action or asserted failure or negligence of AFFILIATE to comply with any federal, state or local laws.
 - 10.1.2 AFFILIATE agrees to indemnify SCERIS and hold it harmless from all claims or fines which may be asserted against SCERIS by a tax authority because SCERIS has not withheld monies from AFFILIATE. AFFILIATE also agrees to indemnify SCERIS for non- payment or under-payment of such taxes by AFFILIATE.
 - 10.1.3 AFFILIATE agrees to immediately notify SCERIS, in writing, upon receipt of any action where indemnity may be sought against SCERIS.
 - 10.1.4 AFFILIATE shall have the right to employ separate counsel in any such action and participate in the defense there- of but the fees and expenses of such counsel shall not be the responsibility of SCERIS.
- 10.2 SCERIS agrees to indemnify and hold harmless AFFILIATE for any claims, liabilities, damages or causes of action, known or unknown, accruing from any source as the result of SCERIS's activities.
 - 10.2.1 SCERIS agrees to indemnify and hold harmless AFFILIATE for any legal or other expenses reasonably incurred by the AFFILIATE insofar as losses, claims, damages, expenses, liabilities or actions arise out of, or are based upon any action or asserted failure or negligence of SCERIS to comply with any federal, state or local laws.
 - 10.2.2 SCERIS agrees to immediately notify AFFILIATE, in writing, upon receipt of any action where indemnity may be sought against AFFILIATE.
 - 10.2.3 SCERIS shall have the right to employ separate counsel in any such action and participate in the defense thereof but the fees and expenses of such counsel shall not be the responsibility of the AFFILIATE. The AFFILIATE shall not be liable to indemnify any person for any settlement of any such action effected without consent of AFFILIATE.

11 CONFIDENTIALITY, NONDISCLOSURE, NONSOLICITATION AND NONCOMPETITION:

- 11.1 This Agreement is a confidential document and there may be confidential information disclosed to the AFFILIATE from time to time, and the AFFILIATE may have access to, confidential and/or proprietary information belonging to SCERIS or to its subsidiaries, affiliates, customers, clients, business AFFILIATEs, employees or independent AFFILIATEs, and such information may be related to these parties' respective services and products, customers, business methods, strategies and practices, internal operations, pricing and billing, financial data, costs, personnel information, customer and supplier contracts and needs, sales lists, customer lists, prospective customer names or lists, sources of supply, technology, software, computer programs and other documentation, computer systems, inventions, developments, trade secrets of every kind and character, information designated by any of these parties as being proprietary or confidential and all other information that might reasonably be deemed confidential ("Confidential Information"). The obligation of confidentiality under this Agreement shall not apply to information which is already known by AFFILIATE or is publicly available at the time of disclosure; is disclosed to AFFILIATE by a third party who is not in breach of any obligation of confidentiality; becomes publicly available after disclosure through no act of recipient; or is independently developed by AFFILIATE without reference and by individuals who did not directly or indirectly receive any confidential information or other information that was disclosed in confidence to any third party.
- 11.2 AFFILIATE agrees that it will release confidential information only to an employee who has need of such information. The term "employee" may include any consultant or any person not in a master-servant relationship with the AFFILIATE, who is, however, under a written agreement binding himself to the confidentiality provisions set forth herein.
- 11.3 If the AFFILIATE receives notice indicating that it may or shall be legally compelled to disclose any confidential information, it shall provide SCERIS with prompt notice so that SCERIS may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. If such protective order or other remedy is not obtained for whatever reason, or SCERIS waives compliance with the provisions of this Agreement, then the AFFILIATE shall furnish only that portion of the information in respect of which it is advised by written opinion of counsel that it is required to disclose.
- 11.4 AFFILIATE hereto agrees that it will not offer products that compete with the Products of SCERIS, either directly or indirectly.
- 11.5 AFFILIATE hereto also agrees that failure to comply with the provisions of this Article may cause irreparable harm to the affected party or SCERIS, and accordingly agrees that any court having jurisdiction may enter a preliminary and/or permanent restraining order, injunction or order of specific performance in the event of actual or threatened breach of any provisions of this Article.
- 11.6 Upon termination of the Agreement between AFFILIATE and SCERIS for any reason, AFFILIATE will deliver to SCERIS all Confidential Information, records, notes, and memoranda or any nature, in its possession or control, which is the property of SCERIS.
- 11.7 During the term of this Agreement and for three (3) years thereafter, AFFILIATE will not in any way, directly or indirectly, solicit, divert, take away or attempt to solicit, divert or take away any business accounts, staff (including but not limited to technical, permanent or temporary personnel), trade, business or goodwill from SCERIS nor will AFFILIATE otherwise compete or attempt to compete for said accounts or personnel which AFFILIATE serviced and/or became known to AFFILIATE through affiliation with SCERIS, and AFFILIATE agrees not to influence or attempt to influence any of SCERIS's customers or technical, permanent or temporary personnel or independent AFFILIATEs or any entity not to do business with SCERIS.
- 11.8 Notwithstanding the expiration of the other portions of this Agreement, the obligations and provisions of this Article shall continue for a period of three years from the termination of this Agreement.

12 TERMINATION AND RESIDUAL RIGHTS UPON TERMINATION: Both Parties acknowledge and agree that this Agreement is entered into on an "at-will" basis and can be terminated at any time without cause by either Party.

- 12.1 This Agreement can be terminated for cause by SCERIS for any action or asserted failure or negligence of AFFILIATE to comply with any federal, state or local laws or for actions that the AFFILIATE is specifically prohibited from performing as per Section 5 (AFFILIATE PROHIBITIONS). Such termination shall become effective immediately. The termination of this Agreement for cause shall void the liability of SCERIS to the AFFILIATE for compensation or other monies that become due and owing prior to or after the effective date of such termination.

- 12.2 Termination of this Agreement for reasons other than cause shall not void the liability of SCERIS to the AFFILIATE for Customers with contracts with SCERIS completed prior to the termination date. For such Customers, SCERIS shall make the compensation calculations and pay compensation as described in Section 6.0 (COMPENSATION TO AFFILIATE FOR SALES) which shall survive the termination date. Sales activity with a prospect that has not resulted in an accepted order at the time of termination is not subject to the payment of compensation. SCERIS agrees in good faith not to terminate this Agreement for the purpose of avoiding payment of compensation. Such termination will become effective within Ten (10) days of a written notice of an intention to terminate this Agreement. The AFFILIATE shall submit a final report within 14 days after termination of this Agreement describing the status for each of the AFFILIATE's active prospects and accounts within AFFILIATE's list of registered accounts.
- 12.3 Termination of this Agreement for reasons other than cause shall not void the liability of SCERIS to the AFFILIATE for fees associated with Sponsored Affiliate(s) and Sponsored Sub-Affiliate(s) placed with SCERIS prior to the termination date. SCERIS shall make the compensation calculations and pay compensation as described in Sections 6.3 and 6.4 (compensation to AFFILIATE for Sponsored Affiliate revenue sharing and Sponsored Sub-Affiliate revenue sharing) which shall survive the termination date. SCERIS agrees in good faith not to terminate this Agreement for the purpose of avoiding payment of compensation. Such termination will become effective within Ten (10) days of a written notice of an intention to terminate this Agreement.
- 12.4 Except as otherwise provided in this Agreement, upon termination of this Agreement, neither party shall be liable to the other by reason thereof either for compensation or damages of any kind or character whatsoever, whether on account of the loss by either party of present or prospective profits or compensation on sales, or expenditures, investments, or commitments made in connection therewith, or in connection with the establishment, development, or maintenance of the business of the other.
- 13 **LIMITATIONS OF LIABILITY:** For any claim AFFILIATE brings against SCERIS, SCERIS's liability shall not exceed the lesser of (i) AFFILIATE's actual damages caused by the breach; or (ii) the calculation of compensation as described in Section 6 (COMPENSATION TO AFFILIATE) for an individual transaction. IN NO EVENT SHALL SCERIS BE LIABLE TO AFFILIATE OR THIRD PARTIES FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS, OR ANTICIPATORY PROFITS, EVEN IF SCERIS HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES.
- 14 **MODIFICATION:**
- 14.1 SCERIS may modify this Agreement at any time. When SCERIS makes material changes to this Agreement, it will post the revised Agreement on the AFFILIATE webpage and update the "Last Updated" date at the top of the Agreement. SCERIS will also provide AFFILIATE with notice of any material changes before the date the revised Agreement becomes effective. If AFFILIATE disagrees with the revised Agreement, AFFILIATE may terminate the AGREEMENT immediately as provided herein. Continued participation in the Affiliate Program after the revised program becomes effective will constitute acceptance of the revised Agreement. SCERIS may modify information on any website hyperlined from or to this agreement from time to time and such modifications shall be effective upon posting.
- 15 **E-SIGN CONSENT AGREEMENT:**
- 15.1 This SCERIS E-Sign Consent Agreement allows SCERIS to provide AFFILIATE with electronic versions of notices, disclosures and other communications in connection with the products SCERIS offers and agreements entered into between SCERIS and AFFILIATE.
- 15.2 AFFILIATE's electronic signature has the same effect as if signed in ink.
- 16 **GENERAL TERMS:**
- 16.1 Publicity. Either Party desiring to issue a news release, public announcement, advertisement, or other form of publicity concerning his efforts in connection with this Agreement shall give full consideration to the role and contributions of the other Party and shall obtain the prior written approval of the other Party.
- 16.2 Use of SCERIS Brands: Use of SCERIS brands, trademarks and other proprietary property by the AFFILIATE shall be limited to guidelines published by SCERIS which may be updated by SCERIS at any time and without notice.
- 16.3 Entire Contract. This Agreement (including subsequent attachments and amendments) contains the entire agreement between the Parties and replaces all prior oral or written proposals, contracts, agreements, representations and communications between the Parties with respect to the subject matter of this Agreement. All information furnished as a part of this Agreement, including this Agreement, represents confidential information.
- 16.4 Amendments. This Agreement may be modified by SCERIS provided that the amendment or modification is made with all Affiliate Agreements. Otherwise, no amendment or modification of this Agreement shall be made except by an instrument in writing signed by both parties and clearly marked as amendment or modification.
- 16.5 No Prior Restrictions. The AFFILIATE represents that he has no contractual or other restriction(s) prohibiting the AFFILIATE from entering into this Agreement, and therefore will hold SCERIS harmless from any and all suits and claims arising out of any such prior restrictions.
- 16.6 Governing Law. This contract shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts (Commonwealth), excluding the Commonwealth's choice-of-law principles, and all claims relating to or arising out of this contract, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the Commonwealth of Massachusetts, excluding the Commonwealth's choice-of-law principles. In any legal action relating to this Agreement, both parties agree to the exclusive jurisdiction over it by a state or federal court in Middlesex County, Massachusetts, USA.
- 16.7 Disputes: Any dispute, controversy or claim (hereinafter "disputes") arising from or relating to this Agreement or any breach or threatened breach thereof shall be resolved by following an escalation procedure. The Parties shall attempt to resolve any disputes as to the interpretation of this contract or as to the performance of either party hereunder. If they cannot resolve such dispute within thirty (30) calendar days, they shall refer the matter to the parties' respective chief executive official, who shall attempt to resolve the dispute. AFFILIATE agrees that it has no recourse for decisions reached by SCERIS about compensation splits as identified in Section 6.7 and the effect those splits have on AFFILIATE's compensation or disputes about prospect registrations as identified in Section 7 (ACCOUNT REGISTRATION) and Section 8 (DISPUTES ABOUT PROSPECT REGISTRATIONS). In any action or proceeding between the Parties,

or brought to enforce the terms of this Agreement, the prevailing party in such action or proceeding shall NOT be entitled to recover its attorneys' fees and court costs.

- 16.8 Severability. If any provision of this Agreement shall be held to be unenforceable, such holding shall not affect the enforceability of any other provisions hereof.
- 16.9 Notices. All notices or other communications hereunder shall be in writing, sent by air or express mail, and shall be deemed given if (i) delivered or mailed by registered United States air mail, return receipt requested, or (ii) sent by the courier, to the address set forth above.
- 16.10 Force Majeure. Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of such Party. Such acts shall include, but not be limited to, acts of God, strikes, riots, acts of war, epidemics, fire, communication line failures, earthquakes, or other disasters.
- 16.11 No Assignment. Neither this Agreement nor any of the rights, interests or obligations under the Agreement shall be assigned, in whole or in part, by operation of law or otherwise by the AFFILIATE without the prior written consent of SCERIS. Any attempt without such permission to assign any rights or delegate any duties or obligations under this Agreement will be void.
- 16.12 Judicial Modifications. If any provision or any portion of this Agreement shall, to any extent, be held by a court of competent jurisdiction to be excessive or unenforceable in any circumstance or to any extent, then the remainder of this Agreement and the application of such provision or portion in all other circumstances shall be valid and enforceable to the fullest extent permitted by law or equity. THE PARTIES INTEND THAT THIS AGREEMENT IS VALID AND SHALL BE ENFORCED AS WRITTEN.
- 16.13 Reporting. The Parties shall maintain full, clear and accurate records with respect to each and every proposal, implementation, service and billing.
- 16.14 Waiver of Terms. No provision of this Agreement may be waived except by an agreement in writing signed by the waiving Party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.
- 16.15 Binding Effect. This Agreement shall be provided to and binding upon the Parties (AFFILIATE and SCERIS) and their successors and assigns.
- 16.16 Headings. The headings of articles and the sections are included solely for convenience of reference. If any conflict between any heading and the text of the Agreement exists, the text shall control.
- 16.17 Representation and Authority. This Agreement has been duly authorized, executed and delivered by the Parties, and constitutes a legal, valid and binding obligation of the Parties, enforceable against each in accordance with its terms. SCERIS has the right, power and authority to enter into this Agreement and to carry out the terms and provisions of this Agreement. AFFILIATE has the right, power and authority to enter into this Agreement and to carry out the terms and provisions of this Agreement.