

## **Heaven's Star LLC Affiliate Partner Agreement**

This agreement is entered into between Brandspring Solutions, LLC ("Heaven's Star"), and you ("Affiliate"). This Agreement, together with any operating rules, policies, compensation schedules, or other supplemental documents expressly incorporated herein by reference and published from time to time by Heaven's Star (collectively, the "Agreement"), constitutes the entire agreement between Heaven's Star and Affiliate regarding this relationship described in this contract ("Program"). This agreement supersedes all prior agreements between the parties regarding the subject matter of this Agreement. The words "our" and "us" refers to Heaven's Star, and/or its vendors. The words "you" and "your" refer to Affiliate.

### **1. TERM**

1.1 This Agreement shall be effective from the date application is approved by Heaven's Star. The term of this agreement shall commence on the date hereof and continue for twelve (12) months ("Term") unless earlier terminated according to the terms and conditions as set forth herein. Agreement will automatically renew for an additional twelve (12) month period unless written notice is received by Heaven's Star no later than thirty days from expiration date.

1.2 Approval. Once your Application has been approved, we grant you a revocable, non-exclusive, royalty-free license for the duration of the term of this Agreement, solely for purposes of facilitating referrals from your website to Heaven's Star's Heavenstar.com Website.

1.3 Termination. Either party may terminate this agreement, with or without cause by giving the other party notice of termination. E-mail communication is acceptable notice. Upon termination of this Agreement, affiliate agrees to immediately remove any and all links to Heavenstar.com and all of our trademarks, logos and any other materials provided by or on behalf of us to you. You are eligible to earn referral fees only on downloads of qualifying products that occur during the term. If upon termination you have less than \$50 in accrued referral fees, Heaven's Star will pay the final amount due less a \$10 processing fee. We may withhold final payment for a reasonable time to ensure that the correct amount is paid.

### **2. PARTICIPATION IN THE PROGRAM**

2.1 By participating in the Program, Affiliate agrees not to (a) mislead others with respect to Heaven's Star and its products and services; (b) send spam or other unsolicited messages which reference Heaven's Star or our Heaven's Star service in any way. Heaven's Star does not and will not tolerate the sending of unsolicited email messages and will prosecute all offenders to the fullest extent of the law. You shall not cause any transactions to be made that are not in good faith, including, but not limited to, using any script, device, program, robot, Iframes, hidden frames, redirects or clicking on Special Links to the Heavenstar.com Website that you place. Breach of any of these requirements is cause for termination of the Affiliate Program Agreement and your participation in the Program.

2.2 We will provide you with guidelines and graphical artwork to use in linking to the Heavenstar.com Website. To enable accurate tracking, reporting, and referral fee accrual, we will provide you with special "tagged" link formats to be used in all links between your website and the Heavenstar.com Website. You must ensure that each of the links between your website and the Heavenstar.com Website makes proper use of such special link formats. You will earn referral fees only with respect to activity on the Heavenstar.com Website occurring directly through special links. We are not liable for any failure by you to properly use Special Links, including, the extent to which such failure may result in any reduction of referral fee amounts that would otherwise be paid to you pursuant to this Agreement.

2.3 You acknowledge that, by participating in the Program and placing any of the above links within your website, we may receive information from or about visitors to your website or communications between your website and those visitors. Your participation in the Program constitutes your specific and unconditional consent to and authorization for our access to, receipt, storage, use, and disclosure of any and all such information, consistent with the policies and procedures set forth in Heaven's Star's Privacy Policy (on the [www.heavenstar.com](http://www.heavenstar.com) website).

2.4 Except for the license granted herein, you do not obtain any rights under this Agreement to any intellectual property, including, without limitation, any intellectual property with respect to the Special Links, link formats, technical specifications, guidelines or graphical artwork referenced above, or with respect to the Heaven's Star.com or heavenstar.com domain name.

2.5 You also acknowledge that we and our designates may crawl or otherwise monitor your website for the purpose of ensuring the quality and reliability of Special Links on your website (for example, to detect links that are broken or non-functional, links to products or services that are unavailable, etc.). Therefore, you agree that we and our corporate affiliates may take such actions and that you will not seek to block or otherwise interfere with such crawling or monitoring (and that we and our corporate affiliates may use technical means to overcome any methods used on your website to block or interfere with such crawling or monitoring).

2.6 By participating in the Program, you consent to our sending you, from time to time, email updates about the Program.

2.7 Further, you acknowledge and agree that you will:

- (a) use any data, images, text, or other information obtained by you from us or the Heavenstar.com Website ("Content") in connection with this Agreement only in a lawful manner and only in accordance with the terms of this Agreement;
- (b) not modify or alter any Content that consists of a graphic image, other than to resize it;
- (c) not edit any Content that consists of text, other than to shorten its length;
- (d) not sell, redistribute, sublicense or transfer any Content;
- (e) not use any Content in a manner intended to send website visitors to any website other than the Heavenstar.com Website; and
- (f) promptly delete any Content that is no longer displayed on the Heavenstar.com Website or that we notify you is no longer available for your use.

2.8 Spyware and other Parawebsites. Affiliates suspected of a relationship, formal or informal, with any provider of spyware or parasitic software (as judged by Heaven's Star, in its sole discretion) is subject to punitive actions by Heaven's Star, without notice, including but not limited to: suspension of Affiliate account; termination of Affiliate account; withholding of payments to Affiliate; and public notification of Affiliate's suspected malfeasance. Heaven's Star encourages Affiliates to report suspicions of such relationships; and, should substantial proof, as judged by Heaven's Star, be provided, Affiliate forfeits all unpaid monies earned by the offending affiliate (or a part thereof) as liquidated damages and/or administrative fees.

### 3. ORDER PROCESSING

3.1 We will process orders for trial downloads or paid subscriptions placed by customers who follow Special Links from your website to the Heavenstar.com Website. We reserve the right to reject orders that do not comply with any requirements that we periodically may establish.

### 4. REFERRAL FEES

4.1 We will pay you (in accordance with Sections 6 and 7 below) referral fees on purchases of Heaven's Star Certificates and other products that may be offered for sale on the Heavens Star website by third parties, from time-to-time. To be eligible to earn a referral fee, the customer must click through a Special Link, with tracking code, from your website(s) or embedded email, banner ad or other promotion to the Heavenstar.com Website.

4.2 To permit accurate tracking, reporting and fee accrual, you must ensure that the Special Links between your website and the Heavenstar.com website are properly formatted. We will not be liable for paying referral fees on purchases that are not correctly tracked and reported because the links between your website and the Heavenstar.com Website are not properly formatted.

4.3 After 60 days have elapsed from the initial click-through, we will not pay referral fees on any purchases by a customer after the customer has reentered the Heavenstar.com Website (other than through a Special Link from your website), as determined by us, even if the customer previously followed a link from your website to the Heavenstar.com Website.

4.4 You may not download products during sessions initiated through the links on your website for your own use, for resale or commercial use of any kind. This includes downloads for customers or on behalf of customers or downloads of products to be used by you or your friends, relatives, or associates in any manner. Such purchases may result (in our sole discretion) in the withholding of referral fees and/or the termination of this Agreement. Products that are eligible to earn referral fees under the rules set forth above are referred to as "Qualifying Products."

### 5. REFERRAL FEE SCHEDULE

5.1 During each calendar month, for all purchases made during sessions initiated through the Special Links on your website(s) and/or other marketing efforts, you will earn (subject to the other terms of this Agreement) referral fees of Six Dollars (\$6.00) per Heaven's Star Certificate purchased. Heaven's Star reserves the right to change this structure at any time. Such changes will take effect no earlier than seventy-two hours after Heaven's Star has made a reasonable attempt to contact Program participants via email. Tier Downloads / Month Referral fee per Trial Download

5.2 The number of Qualifying Product purchases and approved in a calendar month will be used to determine the referral fee earned per sale. Purchases result in referral fee credits for the calendar month in which they occur (subject to the other terms of this agreement); i.e., if a customer visits the Heaven's Star.com website via a Special Link from your website on October 30th, but does not make a purchase until November 5th, you will earn a referral fee for the purchase, if eligible, in November.

### 6. REFERRAL FEE ADJUSTMENTS

6.1 Adjustment and Withholding of Referral Fees. Referral fees shall not be withheld unreasonably;

however, we reserve the right to adjust referral fees owed to you in certain cases outlined below.

6.2 Purchase Referral Fee Adjustments. If an Affiliate earns a referral fee on a third party's purchase of a Heaven's Star subscription, and Heaven's Star does not receive a cash payment from that third party, Heaven's Star reserves the right to reduce the Affiliate's referral fee payment by the amount of the purchase referral fee.

6.3 Coupons and Special Promotions. From time to time, Heaven's Star may offer Affiliates special coupon codes or other promotions that will be redeemable for a dollar or percentage discount, an extended free trial, or free months of Heaven's Star service. Such coupons and promotions offered directly to Affiliates may be posted online or distributed to Affiliate referral customers as the Affiliate sees fit, subject to terms and conditions outlined by Heaven's Star, and will only be valid for the specified term and must be retracted at Heaven's Star's request. Affiliates must not post or publicize coupon codes or special promotions not associated with the Affiliate program. Affiliates will not receive referral fees for trial downloads or sales of promotional products not associated with the affiliate program, nor will Affiliates receive referral fees on products purchased with a coupon code not valid for use by Affiliate referral customers. Publication of promotional products and coupons not expressly given to you by Heaven's Star for use in promoting Heaven's Star as an Affiliate is grounds for immediate termination of the affiliate agreement. In this case, Heaven's Star may choose to deduct lost revenue from the offending Affiliate's final referral fee payment.

## 7. REFERRAL FEE PAYMENT

7.1 We will pay you referral fees on a monthly basis. Approximately 15 days following the end of each calendar month, we will send you a check for the referral fees earned if the total amount due is at least \$50.00. We are obligated by U.S. federal law to obtain tax information from Program participants who are U.S. citizens, U.S. residents or U.S. corporations and from Program participants who are not U.S. citizens or residents but whose businesses are taxable in the U.S. If we believe you are a Program participant from whom we are obligated to obtain tax information and you do not provide this information to us after we have requested it, we may withhold your referral fee payments until you provide this information or otherwise satisfy us that you are not a person from whom we are required to obtain tax information.

## 8. IDENTIFYING YOURSELF AS AN ASSOCIATE

8.1 You may not issue any press release with respect to this Agreement or your participation in the Program; such action may result in your termination from the Program. You may not in any manner misrepresent or embellish the relationship between us and you, or express or imply any relationship or affiliation between us and you or any other person or entity except as expressly permitted by this Agreement (including by expressing or implying that we support, sponsor, endorse, or contribute money to any charity or other cause).

## 9. LIMITED LICENSE AND RESPONSIBILITY FOR YOUR WEBSITE

9.1 Limited License. We grant you a non-exclusive, revocable right to use the text or images (Affiliate support materials) for which we grant express permission. You may not modify the graphic image or text, or any other of our images, in any way. We reserve all of our rights in the graphic image and text, any other images, our trade names and trademarks, and all other intellectual property rights.

9.2 Responsibility for Your Website. You will be solely responsible for the development, operation, and

maintenance of your website and for all materials that appear on your website. For example, you will be solely responsible for:

- (a) the technical operation of your website and all related equipment;
- (b) creating and posting product/service descriptions on your website and linking those descriptions to the Heaven's Star.com Website;
- (c) the accuracy and appropriateness of materials posted on your website (including, among other things, all product/service-related materials);
- (d) ensuring that materials posted on your website do not violate or infringe upon the rights of any third party (including, for example, copyrights, trademarks, privacy, or other personal or proprietary rights);
- (e) ensuring that materials posted on your website are not libelous or otherwise illegal;
- (f) ensuring that your website accurately and adequately discloses, either through a privacy policy or otherwise, how you collect, use, store, and disclose data collected from visitors, including, where applicable, that third parties (including advertisers) may serve content and/or advertisements and collect information directly from visitors and may place or recognize cookies on visitors' browsers. We disclaim all liability for these matters. Further, you will indemnify and hold us harmless from all claims, damages, and expenses (including, without limitation, attorneys' fees) relating to the development, operation, maintenance, and contents of your website.

## 10. COMPLIANCE WITH THE LAW

10.1 As a condition to your participation in the Program, you agree that while you are a Program participant you will comply with all laws, ordinances, rules, regulations, orders, licenses, permits, judgments, decisions or other requirements of any governmental authority that has jurisdiction over you, whether those laws, etc. are now in effect or later come into effect during the time you are a Program participant. Without limiting the foregoing obligation, you agree that as a condition of your participation in the Program you will comply with all applicable laws (federal, state or otherwise) that govern marketing email, including without limitation, the CAN-SPAM Act of 2003 and all other anti-spam laws.

## 11. MODIFICATION

11.1 We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion, by posting a change notice or a new agreement on the Heaven's Star.com Website. Modifications may include, for example, changes in the scope of available referral fees, referral fee schedules, payment procedures, and Program rules. **IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RECOURSE IS TO TERMINATE THIS AGREEMENT. YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON THE HEAVEN'S STAR.COM WEBSITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.**

## 12. INDEPENDENT CONTRACTOR STATUS

12. Heaven's Star agrees to contract with Affiliate for the term hereof, on a limited, non-exclusive basis to

offer Heaven's Star Services (such as Heaven's Star) to their customers subject to the terms and conditions of this Agreement. Affiliate is an independent company and independent contractor. Nothing contained herein shall be construed to imply an employer/employee relationship between Heaven's Star and Affiliate, or a joint venture relationship. Any taxes payable as a result of revenue collected and shared by Heaven's Star with Affiliate are the responsibility of Affiliate.

### 13. LIMITATION OF LIABILITY

13.1 We will not be liable for indirect, special, or consequential damages (or any loss of revenue, profits, or data) arising in connection with this Agreement or the Program, even if we have been advised of the possibility of such damages. Further, our aggregate liability arising with respect to this Agreement and the Program will not exceed the total referral fees paid or payable to you under this Agreement.

13.2 Disclaimers. We make no express or implied warranties or representations with respect to the Program or any products downloaded or sold through the Program (including, without limitation, warranties of fitness, merchantability, non-infringement, or any implied warranties arising out of a course of performance, dealing, or trade usage). In addition, we make no representation that the operation of the heavenstar.com Website will be uninterrupted or error-free, and we will not be liable for the consequences of any interruptions or errors.

### 14. INDEPENDENT INVESTIGATION

14.1 YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT WE MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEBSITES THAT ARE SIMILAR TO OR COMPETE WITH YOUR WEB WEBSITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

### 15. ARBITRATION

15.1 Any dispute relating in any way to this Agreement (including any actual or alleged breach hereof), any transactions or activities under this Agreement or your relationship with us or any of our affiliates shall be submitted to confidential arbitration in Minneapolis, MN, except that, to the extent you have in any manner violated or threatened to violate our intellectual property rights, we may seek injunctive or other appropriate relief in any state or federal court in the state of Minnesota (and you consent to nonexclusive jurisdiction and venue in such courts) or any other court of competent jurisdiction. Arbitration under this agreement shall be conducted under the rules then prevailing of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this Agreement shall be joined to an arbitration involving any other party subject to this Agreement, whether through class arbitration proceedings or otherwise.

### 16. MISCELLANEOUS

16.1 This Agreement will be governed by the laws of the United States and the State of Minnesota, without reference to rules governing choice of laws. You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective

successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

17. ENTIRE AGREEMENT

17.1. This writing constitutes the entire agreement between the parties as to the subject matter hereof and supersedes and merges all prior discussions between the parties hereto. This Agreement may be modified only by a written instrument executed by an authorized representative of Affiliate and Heaven's Star.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date written below.

AFFILIATE

BRANDSPRING SOLUTIONS LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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