

SCALA® SOLUTION SALES PARTNER AGREEMENT

This Solution Sales Partner Agreement (the "Agreement"), effective as of _____, 201__ (the "Effective Date"), is entered into by and between Scala, Inc., a Delaware corporation, having offices at 350 Eagleview Boulevard, Suite 350, Exton, PA 19341, United States ("Scala") and _____, a _____ corporation, having offices at _____ ("Scala Solution Sales Partner" or "SP") (each a "Party," collectively the "Parties").

Territory (check which apply):

- Geographic Region (describe by country) _____
- Commercial
- Government & Education
- GSA

RECITALS

Whereas, Scala has developed, owns and markets a suite of software products, services, and post-sales support services for content creation, management and distribution in digital signage networks, and the first unified platform for advertising management of both traditional and digital signage networks;

Whereas, SP desires to license the Products from Scala in order to (i) sub-license the Products to SP's customers which may include OEMs and Authorized Resellers (with prior approval by Scala) or End Users and Scala desires to make the Products available to SP for these purposes or (ii) host Scala networks for End Users under a term license agreement (from Scala) or (iii) own and operate their own Scala network for profit under a perpetual license agreement (from Scala). In situations (ii) and (iii), the SP aims to deploy Scala Products by hosting them or reselling hosted access to Scala Products, in order to provide a more complete horizontal or vertical market solution. The SP solution is sold to End Users under the SP brand and Scala desires to make its Products available to SP for these purposes.

NOW, THEREFORE, in consideration of the foregoing premises, the Parties agree that the terms and conditions, mutual covenants and promises contained herein, shall govern the distribution of the Products by SP. The Parties hereby agree as follows:

AGREEMENT

1. Definitions. As used in this Agreement, the following capitalized terms shall have the meanings set forth below:

- 1.1 "Affiliate" shall mean any entity which controls, is controlled by or is under common control with a Party, for so long as such control exists. For purposes of this definition, "control" means beneficial ownership of more than fifty percent (50%) of the shares of the subject entity entitled to vote in the election of directors (or, in the case of an entity that is not a corporation, the corresponding managing body).
- 1.2 "Agreement" shall mean this Agreement, fully executed by the Parties, which includes all Exhibits and Attachments.
- 1.3 "Authorized Reseller" shall mean a third party, approved in advance by Scala, meeting the criteria to act as a reseller of the Product for SP in accordance with Section 2.4.
- 1.4 "Confidential Information" shall have the meaning set forth in Section 9.
- 1.5 "Documentation" shall mean Scala's user manuals, other user documentation, marketing documentation, training manuals, and other training materials, in each case provided by or under authority of Scala to SP from time to time under this Agreement.
- 1.6 "End User" shall mean an entity that purchases the Product from SP, an OEM, or an Authorized Reseller for its own internal use only and not for distribution.
- 1.7 "End User License Agreement (EULA)" shall mean Scala's end user terms and conditions for the Product in the form of (i) a perpetual license or a translation thereof, or as specified by Scala at <http://www.scala.com/support/eula> or (ii) a term license or a translation thereof, or as specified by Scala at <http://www.scala.com/usscp/eulaterm>. Such website may be updated by Scala in accordance with Section 4.8(c) of this Agreement.
- 1.8 "License Fees" shall have the meaning set forth in Section 4.4.
- 1.9 "OEM" shall mean and be limited to an original equipment manufacturer, approved in advance by Scala, who pre-installs or bundles software with its hardware.
- 1.10 "OEM Product" shall mean and be limited to an OEM's hardware loaded or bundled with the Products.
- 1.11 "Partner Program Guide" shall mean the benefits and obligations outlined in the Scala Partner Program Guide as specified by Scala at <http://www.scala.com/usscp/prog>. Scala has the right to modify and otherwise update the Partner Program Guide.

1.12 "Product" shall mean all current and future software products, services and post-sales support made available by Scala, as mutually agreed by Scala and SP in writing, but only to the extent that Scala is authorized to license such software products, services and post-sales support to SP within the Territory without infringement of third party rights.

1.13 "Scala Support" shall mean the terms and conditions under which Scala shall provide support to SP as specified by Scala at <http://www.scala.com/usscp/support>. Scala has the right to modify and otherwise update Scala Support.

1.14 "Scala Trademarks" shall mean the trademarks of Scala set forth in Exhibit 1.14, as such Exhibit may be updated by Scala from time to time.

1.15 "Sell," "Sale" and similar words shall mean to enter into an agreement with an End User, OEM or Authorized Reseller to license and provide the Product.

1.16 "SP Network" shall mean a network run by a SP that hosts Scala networks for End Users under a Scala term license agreement or a network run by a SP who for profit under a Scala perpetual license agreement whereby the SP aims to deploy Scala Products by hosting them or reselling hosted access to Scala Products, in order to provide a more complete horizontal or vertical market solution.

1.17 "Territory" shall mean the geographic region and/or business market SP may market and sell Product as outlined on page 1 herein of this Agreement. Such territory may be amended by the Parties mutual written agreement.

1.18 "User Documentation" shall mean the Documentation which Scala determines may be distributed to End Users.

2. Appointment, Rights, Obligations and Restrictions of SP.

2.1 Appointment. Subject to the terms and conditions of this Agreement, Scala hereby appoints SP, a non-exclusive, independent distributor and reseller, at SP's own risk and expense. SP shall have the right to order and receive Product solely for the purposes of: (i) displaying, marketing, selling and distributing the Product in the Territory, directly or through OEMs and/or Authorized Resellers, to End Users; (ii) hosting Scala networks for End Users under a term license agreement (from Scala) or (iii) own and operate their own Scala network for profit under a perpetual license agreement (from Scala). In situations (ii) and (iii), the SP aims to deploy Scala Products by hosting them or reselling hosted access to Scala Products, in order to provide a more complete horizontal or vertical market solution. The SP solution is sold to End Users under the SP brand and Scala desires to make its Products available to SP for these purposes.

2.2 Exclusivity. Except as expressly provided in this Agreement, no exclusivity is granted, whether express or implied.

2.3 End Users. SP, its OEMs and Authorized Resellers may market and Sell the Product only to End Users in the Territory for which the End User purchases the Product for its own internal use at its facilities located within the Territory and not for further distribution.

2.4 OEMs and Authorized Resellers.

(a) Subject to the terms and conditions of this Agreement, SP may appoint OEMs and Authorized Resellers to market and Sell the Product under this Agreement; *provided that* (i) SP notifies Scala of its intention to appoint an OEM or Authorized Reseller; (ii) SP discloses to Scala pertinent information about such OEM/Authorized Reseller including: company name, address, telephone number, contact person, web and e-mail address; (iii) the third party meets Scala's then current requirements and policies to qualify as an OEM or Authorized Reseller (iv) such OEM/Authorized Reseller shall be subject to review and written approval by Scala, such approval not to be unreasonably withheld.; and (v) SP has entered into a written agreement with each such third party that is at least as protective of Scala with respect to the terms of this Agreement, including any disclaimers and limitations of warranties and liability, rights of Scala to enforce the End User License Agreement, and limitations on scope of marketing and Sales activities with respect to the Product.

(b) In the event of any breach of this Agreement as a result of actions or inactions of an OEM or Authorized Reseller (such as sales to Customers outside the scope of Section 2.1), SP shall notify Scala immediately of the breach, and if requested by Scala, SP shall terminate the OEM or Authorized Reseller unless the breach is cured within thirty (30) days after the OEM or Authorized Reseller is notified of the breach.

(c) SP shall be responsible for the actions of all of its OEMs and Authorized Resellers, and such conduct shall be governed by the terms of this Agreement, as if performed by SP. SP and the OEM/Authorized Reseller shall be responsible for performing the obligations of SP under this Agreement related to such Sales (including support obligations), and SP shall be responsible under this Agreement for any failure of the OEM or Authorized Reseller to do so.

2.5 Obligations

(a) SP shall meet the minimum requirements outlined in the Partner Program Guide based on the partnership level selected by SP. Failure to meet these requirements may result in the termination or reduction in the SP partnership level by Scala, without incurring liability.

(b) SP shall maintain at its sole cost and expense, suitable facilities and resources for the Products, which shall include without limitation: maintaining in good operating condition appropriate and compatible computer hardware, peripherals and system software adequate to operate and/or demonstrate the Products' functionality; appropriately train direct sales, application, engineering, service and maintenance staff capable of competently operating and demonstrating the Products' functionality; and supporting and maintaining the Products for SP End Users, OEMs and/or Authorized Resellers.

(c) SP shall be entitled to receive a limited number of demonstration copies of the Products for use by SP's employees to familiarize themselves with the operation of the Products and to demonstrate the Products to End Users, OEMs and/or Authorized Resellers ("Not-For-Resale Copies"). SP agrees to provide Scala with information it requires to identify and track users of Not-For-Resale Copies, and further agrees to promptly return to Scala the dongle for such Not-For-Resale Copies when any such user leaves the employment of or engagement by SP. Not-For-Resale Copies of Scala Products are given at the sole discretion of Scala and a nominal fee may be charged.

(d) SP, its OEMs or Authorized Resellers shall register its End User customers, in accordance with then-current Scala End User product registration procedures, at the time of sale of the Products to such End User. Information to be provided to Scala includes, but is not limited to End User company name, contact, telephone number and email address. Scala will NOT provide customer information to any entity outside of Scala or use customer information in such a way as to discourage customer or SP from closing business, but does reserve the right to contact End Users for the general promotion of Scala products and services.

(e) SP shall not purchase, license or obtain Scala Products from any entity other than Scala.

(f) When SP is running a SP Network, SP shall be required to procure and maintain Scala Advantage for all licenses deployed on the SP Network.

(g) When SP is running a SP Network, SP shall be required to maintain the most current version of the Product, including updates, deployed on the SP Network.

(h) SP shall present to Scala a comprehensive business plan ("Business Plan") related to the promotion, sale and support of Products and Services in the Territory; including but not limited to: target markets & opportunities, target End Users, marketing and promotion initiatives and activities, sales objectives of SP, sales projections of SP for a minimum one-year period, resources dedicated to Scala Products and Services. Such Business Plan shall be provided by SP to Scala within sixty days (60) from the date of execution of this Agreement by both parties and, once approved by Scala, shall become an integral part of Agreement.

(i) Within 60 days of the annual anniversary of the date of execution of this Agreement, SP and Scala will undertake a joint review of SP performance in the Territory and execution according to the Business Plan as factors to determine SP status, authorizations and Territory for subsequent twelve-month periods within the Term of Agreement.

2.6 Restrictions

(a) SP, its OEMs or Authorized Resellers shall not acquire Scala Products for use by SP Affiliates unless permission is granted by Scala.

(b) SP may not, directly or indirectly, sell, resell, license or otherwise distribute or permit to be distributed Not-For-Resale Copies.

(c) SP, its OEMs, Authorized Resellers or End Users shall not offer for sale, license or otherwise distribute or permit to be distributed any Scala Product over third party websites, including but not limited to, e-bay, amazon.com, etc.

(d) SP, its OEMs or Authorized Resellers shall not copy, translate, disassemble, decompile or reverse engineer the Products, in whole or in part. To the extent that copies, corrections, translations, adaptations, arrangements or modifications may be necessary for the proper use of the Products, or if information may be necessary to investigate the interoperability of Products with other software, SP shall promptly inform Scala, which shall be solely responsible to carry out the actions or, at its option, to provide the information as deemed necessary by Scala. SP shall not make copies of or make media translations of the user documentation for the Products, unless advance written approval is received from Scala.

(e) SP shall exercise all reasonable diligence to ensure that SP, its OEMs or Authorized Resellers do not sell upgrade or extend versions of the Products to End Users who (i) are not properly licensed for the Products, or (ii) have not registered or made payment for software maintenance related to the applicable upgrade-eligible Products.

2.7 Support

(a) Subject to any obligations of Scala to provide second level support as set forth in the terms and conditions under Scala Support, SP shall maintain at its sole cost and expense adequate, trained technical staff sufficient to provide SP End Users, OEMs and/or Authorized Resellers technical support in connection with the installation and operation of Products. SP shall be solely responsible for and Scala shall have no obligation to (i) honor, any representations or warranties provided by SP or SP's OEM/Authorized Reseller with respect to the Product, and (ii) providing support and maintenance to End Users, OEMs, and Authorized Resellers. All Sales and support personnel of SP shall be reasonably trained and competent in the use of the Product (and the advantages and benefits of the Product over competing solutions), and SP shall provide technical support promptly to all End Users, OEMs and Authorized Resellers. Without limiting the foregoing, Sales and support personnel of SP and, if requested by Scala, of OEMs and/or Authorized Resellers, shall attend training offered by Scala, and SP shall dedicate personnel to activities under this Agreement as agreed by the Parties. Support responsibilities of Scala shall be solely second level support as set forth in the terms and conditions under Scala Support, and SP shall cooperate fully with Scala in connection with any support furnished by Scala.

(b) SP shall ensure that End Users contact SP, or its OEMs or Authorized Reseller, and not Scala, for support, *provided that* nothing shall preclude Scala and its designees from contacting End Users directly, including to discuss the Product and any problems or issues experienced by the End Users, to address or diagnose any End User issues or concerns, and to otherwise provide support to End Users. Without limiting the foregoing, if SP or its OEMs or Authorized Reseller fails to perform its support obligations under this Agreement, including not maintaining appropriately trained support staff, Scala shall have the right to provide support directly to End Users, OEMs, and Authorized Resellers and, at its sole discretion, may (1) terminate this Agreement without incurring any liability to SP, (2) charge SP additional support fees in the amount of Scala's then current fees that it charges for comparable support, and/or (3) change the discount structure of the Products sold to the SP to cover the additional support burden on Scala.

(c) SP shall notify Scala promptly in the event that SP or any of its OEMs or Authorized Resellers receives any complaint or identification of a bug in the Product, or other communication of concerns or issues, regarding the Product or the use of the Product and shall provide a copy or reasonable description of the complaint or communication to Scala with such notice.

(d) Support by SP shall include: receipt of calls; problem and question intake; customer site visits for any reason; problem identification and diagnosis; efforts to create repeatable demonstrations of any issues; determining which problems require referral to Scala for in-depth analysis; distributing as appropriate new Documentation made available by Scala; and taking any other actions appropriate to resolve all End User problems.

3. Marketing.

3.1 Business Liaisons. As soon as practicable following the Effective Date, each Party shall designate a dedicated business liaison to manage the relationship between the Parties throughout the term of this Agreement. These liaisons will coordinate regular meetings (whether in person or via telephone conference) between the Parties at mutually agreed upon intervals, but no less often than once a calendar quarter, to discuss objectives, product enhancements, requests by SP for modifications or services, product roadmaps, SP's marketing and Sales activities and efforts, any issues that may arise or have arisen, and the like. Such meetings may be attended (either in person or by teleconference) by mutually agreed personnel of both Parties and are for information purposes only and not binding upon either Party.

3.2 SP's Marketing and Sale. SP shall use best commercial efforts to market, promote and Sell the Product in the Territory. Such efforts shall include but not be limited to (i) conduct marketing activities to OEMs and Authorized Resellers, (ii) maintain a sufficient inventory of the Products to satisfy anticipated demand from OEMs and Authorized Resellers, (iii) make Products sales and promotional materials available to OEMs and Authorized Resellers, (iv) provide training for the Products, (v) support special promotions to OEMs and Authorized Resellers, and (vi) maintain a sound financial condition. Such efforts shall also include making regular Sales calls to End Users, participating in trade shows to market and demonstrate the Product, prompt follow up of leads (including those identified by Scala), reporting customer responses and feedback to Scala, advising Scala regarding advertising and Sales promotions, informing Scala of customer requests and needs related to the Product, informing Scala regarding competing products that are available in the Territory, and taking such other actions as Scala may advise will be helpful to maximize and facilitate the marketing and Sales of Product in the Territory. SP shall keep Scala fully informed regarding the activities of SP and its OEMs and Authorized Resellers with respect to Product in the Territory, including progress against SP business plans.

3.3 Marketing Materials. SP shall obtain Scala's written approval before using any Sales or promotional material, or advertisements or training material, with respect to the Product that have not been provided by Scala, including all Documentation.

3.4 Trademarks.

(a) Display. All promotional materials for Product shall display the Scala Trademarks in a manner approved by Scala in writing. Without limiting the foregoing, if any Scala Trademark is to be used in conjunction with another trademark or trade name, then the Scala Trademark shall be presented equally legibly and equally prominently, but nevertheless separated from the other so that each appears to be a mark in its own right, distinct from the other mark. Except for the Scala Trademarks, and the SP Trademarks, no trademarks, trade names, or logos shall be used to market or Sell the Product without Scala's prior written consent. SP, its Affiliates or any OEM or Authorized Reseller shall not engage in any deceptive, misleading, illegal, unfair, or unethical marketing or practices related to the Product or the Scala Trademarks.

(b) License. Scala hereby grants to SP a non-exclusive, non-transferable, royalty free license to use the Scala Trademarks for the term of this Agreement (i) to market and promote the Product in accordance with this Agreement and (ii) as part of the SP Trademarks to market and promote SP's business and the Products. All ownership and goodwill from the use of the Scala Trademarks shall vest in and inure solely to the benefit of Scala.

(c) Recordation. Scala has the right to provide and record in the Territory a separate trademark license for SP for the Scala Trademarks. SP shall cooperate in the preparation and execution of such document. Upon termination of the trademark license set forth in this Section 3, SP shall cooperate in the cancellation of any trademark licenses that have been recorded. All domain names through which the Product are provided shall be registered in the name of Scala or its Affiliate or other designee. SP shall not register any Scala mark or any other mark confusingly similar to any Scala mark.

(d) Trademark Infringement. SP shall notify Scala promptly upon learning of any actual, alleged, or threatened infringement of a Scala Trademark or of any unfair trade practices, trade dress imitation, passing off of counterfeit goods, or similar offenses.

(e) Approval of Representations. All representations of Scala Trademarks that SP intends to use shall first be submitted to Scala for approval of design, color, and other details or shall be exact copies of those used by Scala and shall in all events comply with the usage guidelines established by Scala from time to time. Scala has the right to change its marks by providing ninety (90) days prior written notice, and an updated Exhibit 1.14 (if appropriate) to SP.

(f) Trademark Limitation. Notwithstanding the license in Section 3.4(b), SP shall not use the Scala Trademarks, including as part of the SP Trademarks, with respect to any products or services, other than the Product under this Agreement, unless SP has obtained Scala's prior written approval and the Parties have agreed in writing on the terms and conditions under which Scala will monitor the quality of such products and services.

3.5 Joint Press Release. The Parties shall issue only mutually acceptable press releases ("Joint Press Release"). All press releases shall be subject to the review and approval by each Party prior to release, such approval not to be unreasonably withheld or

delayed. Throughout the term of this Agreement, the Parties shall cooperate in public relations activities, including with regard to the launch of the Product.

4. PURCHASING, PRICE, RETURNS, RESTOCKING, USE OF PRODUCT; REPORTING

4.1 SP Fee. Upon execution of this Agreement, SP shall pay to Scala the entry fee and annual partner program fee indicated on the SP Requirements in the Partner Program Guide. During the term of this Agreement, these fees plus the additional requirements indicated on the SP Requirements within the Partner Program Guide entitle the SP to the SP Program Benefits indicated within the Partner Program Guide. Upon the annual renewal of this Agreement, SP shall pay the annual partner program fee as one of the requirements to remain in the partner program.

4.2 Purchase Orders.

(a) SP will prepare and submit to Scala, prior to each shipment of Products, a purchase order ("Purchase Order"). All SP purchase orders are required to submit End User registration information as well, except for SP's stock, in which case SP is required to provide this information at a later date (but no later than on the date of delivery of Scala Products to SP customer). The terms and conditions of this Agreement shall apply to all Purchase Orders submitted to Scala and supersede any different or additional terms on SP's Purchase Orders. Purchase Orders issued by SP to Scala shall include requests for delivery dates and quantities of Products. All Purchase Orders placed with Scala for the Products shall be subject to written acceptance by Scala. Scala shall use reasonable efforts to make deliveries promptly of orders so accepted, but Scala shall not be liable for any damages to SP or to any other person for Scala's failure to fill any purchase orders, or for any delay in delivery or error in filling any orders for any reason whatsoever. SP shall not issue an order for any Product account sold through an OEM or Authorized Reseller unless SP has received an order from the OEM or Authorized Reseller.

(b) ANY TERMS OR CONDITIONS OF ANY PRODUCT ORDER OR ACKNOWLEDGMENT GIVEN OR RECEIVED WHICH ARE ADDITIONAL TO OR INCONSISTENT WITH THIS AGREEMENT SHALL HAVE NO EFFECT AND SUCH TERMS AND CONDITIONS ARE HEREBY EXCLUDED. FOR CLARITY, THE PRECEDING SENTENCE SHALL NOT PRECLUDE EITHER PARTY FROM MAKING ANY CHANGES TO ITS POLICIES, REQUIREMENTS AND THE EXHIBITS AS EXPRESSLY CONTEMPLATED IN THIS AGREEMENT.

(c) For purchase orders submitted as provided in Section 4.2, Scala's obligations are as follows: (i) will use diligent efforts to expeditiously process SP product orders and (ii) confirm all orders and provide an estimated time of delivery upon specific request by SP.

4.3 Acceptance of Products. Subject to the exceptions set forth in Section 4, Products delivered pursuant to an order fulfilled in accordance with the terms hereunder shall be deemed accepted by SP unless SP returns such Products within fifteen (15) days of the Product invoice date. Sales of accepted Products as provided herein are final, and may not be returned for refund, exchange or credit to SP.

4.4 Price/License Fee. The price of the respective Products ordered by SP from Scala shall be set forth in the then current Scala's Price List in effect for the Territory at the time Scala ships the Scala Products to SP, less the discount shown on the then current SP Discount Schedule. Shipping fees shall be added to the price of the product as set forth in Scala's then current Shipping Schedule. Refer to Exhibit 4.4 for the current Price List for the Territory. Scala reserves the right to apply modified prices and discounts in respect of sales outside the Territory, without notice. Upon thirty days' prior notice, Scala may change its Territory Price List, SP Discount Schedule and/or its Shipping Schedule. All prices are listed in, and all payments shall be tendered by SP in US Dollars.

4.5 Delivery. All shipments of Products will be made F.O.B. from a Scala facility or other such location designated by Scala in writing, except that any software purchased by SP and delivered by Scala electronically be F.O.B. SP's place of business as set forth above, or such other outlet as SP may designate in a Purchase Order. Delivery will be deemed complete, and risk of loss or damage to the Scala Products will pass to SP upon delivery to the carrier, or upon receipt by SP of Scala Products delivered electronically.

4.6 Return Policy

(a) Subject to the provisions set forth in this Section 4.6, Scala will accept the return of any defective or damaged Product upon demand, provided that any such defects or damage did not result from or arise as a result of improper handling, abuse or misuse of the Products by or on behalf of SP, its employees, agents, or End User customers.

(b) Any returns authorized and accepted by Scala must be the most recent release version of the Product(s). SP is responsible for insuring, and prepaid shipping of returned Scala Products.

(c) SP agrees, in accordance with the EULA, to accept the return of any unopened Product from an End User who, prior to installing the Products, declines to be bound by the terms of the EULA. SP shall refund or credit amounts paid by such End User in accordance with SP's return policy. Any unopened Scala Products returned to SP shall remain part of SP's stock and inventory.

(d) Any and all Products returned by SP to Scala are subject to prior approval of Scala, and require a Return Merchandise Authorization (RMA) number issued by Scala. SP will be responsible to return any and all product within fifteen (15) days from the date of the Product invoice to obtain authorization and credit from Scala, unless there is a valid reason, at Scala's option, for extending such time period. Scala will not be responsible for providing a credit to SP for any Scala Product returned by SP after the fifteen (15) day return period.

4.7 Restocking Policy. Scala will charge a twenty percent (20%) restocking fee for all returned product that is not deemed defective or damaged. Scala will apply the credit minus the restocking fee to SP's account for future purchases. Scala will return any unused credit to SP in the form of a check or any other means satisfactory to Scala should SP terminate SP status with Scala.

4.8 Product Use Terms.

(a) All access to and use of the Product, by SP its OEMs or Authorized Resellers and End Users, shall be subject to terms and conditions that are as protective of Scala and the Product as the EULA designated in Section 1.7 herein and this Section 4.8, as updated by Scala from time to time.

(b) SP shall require each End User, OEM or Authorized Reseller to agree, prior to any access or use by the End User, OEM or Authorized Reseller, to such terms and conditions. The foregoing is not intended to limit SP's agreement with the End User, OEM or Authorized Reseller to the product use terms, and is not intended to require SP to use the express EULA designated in Section 1.7 herein, provided that no agreement with an End User, OEM or Authorized Reseller shall be less protective than Scala's EULA or this Agreement. SP shall obtain Scala's advance written consent to the agreement that SP uses with End Users, OEMs or Authorized Resellers, if other than the EULA designated in Section 1.7 herein. For clarity, all contracts for access to and use of the Product shall be between SP or its OEM or Authorized Reseller, and the applicable End User, and Scala's obligations shall be limited to its obligations to SP under this Agreement, notwithstanding anything to the contrary (including any terms and conditions, or click through agreement, or Scala's web site).

(c) Scala has the right to modify and otherwise update the EULA designated in Section 1.7 herein.

(d) SP shall use best commercial efforts to ensure that End Users, OEMs and Authorized Resellers comply with the EULA and shall notify Scala promptly upon becoming aware of any failure to comply, provide Scala with all information within its knowledge regarding such circumstance, and shall assist and cooperate with Scala as reasonably requested for purposes of remedying any such failure. SP shall not Sell or otherwise make the Product available to any party that has failed to comply with the EULA, unless approved by Scala in writing. Scala shall have the right to terminate all End User, OEM or Authorized Reseller accounts in accordance with the then current EULA and this Agreement, and SP agrees that it will not make any inconsistent or conflicting commitment. SP shall make Scala a third party beneficiary of, with the power to enforce against each End User, OEM or Authorized Reseller, the terms of the EULA for the Product.

(e) SP's and its OEMs and Authorized Resellers' right to use the Product includes the right to demonstrate the Product to End Users in the Territory as necessary to perform its marketing obligations under this Agreement.

(f) SP shall communicate to all End Users, either directly or through its OEMs or Authorized Resellers, all End User alerts and communications that Scala determines, in its sole discretion, need to be communicated to End Users.

4.9 Customer Information. SP shall provide, and hereby grants, to Scala sufficient rights and licenses with respect to all information, data, works, and other subject matter that is transmitted through or using, submitted to, received from, or otherwise provided to or by Scala, as a result of the use or operation of the Product.

5. **Taxes, Duties and Payments.**

5.1 Taxes and Duties. In addition to any payments due to Scala under this Agreement, SP shall be responsible to pay amounts equal to any taxes, duties, or other amounts, including state sales taxes, however designated, which are levied or based upon such payments, or upon this Agreement, provided, however, that SP shall not be liable for taxes based on Scala's net income.

5.2 Payment. Payment for the Products ordered from Scala and shipping costs shall be due at the time of the order by check or other means satisfactory to Scala. Scala may, in its sole discretion, grant credit approval, in which case all payments shall be due within net terms after date of Scala's invoice, as provided in such credit approval. The invoice date shall not be before the actual date of shipment. All payments made by check or wire transfer paid in net ten (10) days of invoice will receive a two percent (2%) discount to order (discount does not apply to credit card payments). All sums not paid when due shall accrue interest daily at the lesser of an annual rate of eighteen percent (18%) or the highest rate permissible by law on the unpaid balance until paid in full. Scala reserves the right to terminate or modify the terms of credit payments when, in its sole discretion, Scala believes that its payments may be at risk.

5.3 Support Fees. The fees for the support and maintenance by Scala that are described in the terms and conditions under Scala Support shall be as initially agreed by Scala and SP from time to time in accordance with this Agreement. Such fees are non-refundable and non-creditable and shall be paid as agreed or, if not agreed, within thirty (30) days after invoice. Scala shall have the right to update such fees from time to time based upon changes in costs.

5.4 Payment Currency. Unless expressly indicated to the contrary, all amounts set forth in this Agreement, or any Exhibit, are in US dollars. Payments for international orders shall be made to Scala in U.S. dollars by bank wire transfer in immediately available funds to an account designated by Scala.

5.5 Sole Remuneration. SP's sole remuneration for performing its responsibilities under this Agreement shall be the payments it receives from its End Users, OEMs and Authorized Resellers, less the amounts payable to Scala under this Agreement. SP is solely responsible for establishing the prices charged to OEMs and Authorized Resellers for Product. SP and its OEMs and Authorized Resellers are solely responsible for establishing the prices charged to End Users for Product. SP shall not structure transactions with OEMs or Authorized Resellers or their affiliates in an effort to reduce or avoid payments to Scala under this Agreement.

5.6 Audit Rights. SP shall keep, and shall require its OEMs and Authorized Resellers to keep, complete, true and accurate books of account and records sufficient to demonstrate compliance with the terms of this Agreement, including copies of all End

User, OEM and Authorized Reseller agreements and accounting of all amounts received from End Users, OEMs, and Authorized Resellers and their affiliates. Such books and records shall be kept reasonably accessible for three (3) years following the end of the calendar year to which they pertain. All such records shall be made available for inspection throughout such three (3) year period by an independent third party auditor selected by Scala for the purpose of verifying compliance with the terms of this Agreement. Such inspections may be made no more than once each calendar year during the normal business hours of SP upon ten (10) business days advance notice, provided that if a non-compliance is identified by an audit, then an additional audit may be conducted during such calendar year. Scala shall bear the costs and expenses of inspections conducted under this Section 5.6, unless a non-compliance is established, whereupon all out-of-pocket costs and expenses of the audit will be paid by SP.

6. Ownership; Proprietary Rights.

6.1 Ownership.

(a) Scala shall exclusively own all right, title and interest in and to all inventions, works of authorship, methods, documents, and other technology, data, information and subject matter generated, conceived, created or invented by or under authority of Scala or its Affiliates, whether solely or jointly with Scala or its Affiliates. Scala shall also exclusively own all other improvements, updates, enhancements, modifications, and derivatives of the Products and Documentation that are conceived or created, in connection with this Agreement, including the Documentation, Product, all patents, trade secrets, copyrights, and other intellectual property and proprietary rights concerning any of the foregoing in all countries of the world, including all applications and registrations for intellectual property (collectively the "Work Product").

(b) With respect to any Work Product related to Scala Products invented or created in whole or in part by SP, its Affiliates, OEMs or Approved Resellers that involve the use of Scala Product source code, SP and its Affiliates hereby assign, and shall assign, all right, title and interest in and to such Work Product to Scala. SP and its Affiliates shall, without demanding any further consideration therefore, cooperate with Scala and provide all assistance requested by Scala that is reasonably necessary, proper or advisable to carry out and make effective the foregoing, including, without limitation, executing and filing assignments, applications, registrations, powers of attorney and other appropriate documents (including confirmatory assignments), providing appropriate consents and/or authorizations, and joining in any administrative or judicial action relating to the filing, prosecution or maintenance of any Work Product.

(c) SP shall exclusively own all right, title and interest in and to all inventions, works of authorship, methods, documents, and other technology, data, information and subject matter generated, conceived, created or invented by or under authority of SP or its Affiliates in the SP's branded product offering, excluding the embedded Scala Product technology.

6.2 License. SP acknowledges that Scala does not desire to receive, in connection with this Agreement, any information or technology related to its products, services, or business unless the information and technology can be used in any products and services, in Scala's discretion. Prior to disclosing any information or technology to Scala in which SP, its Affiliate, or licensor, claims a proprietary interest that is not to be assigned to Scala under this Agreement, SP shall provide a proposal to Scala in writing regarding the use of such subject matter by Scala. Scala and SP shall agree in writing upon the terms, if any, under which such information or technology may be used. Except as agreed in writing prior to disclosure of the information or technology to Scala, Scala shall have non-exclusive, perpetual, non-terminable, paid-up, royalty free, worldwide right and license, with the right to grant and authorize sublicenses, to incorporate all such information and technology into Scala products and to make, use, sell, reproduce, distribute, transmit, publicly display and perform such products, services and derivatives thereof.

6.3 Proprietary Markings. Neither Party shall remove any trademark, trade name, copyright notice, patent marking, confidentiality, or other proprietary rights notice or marking from any materials provided to it by the other Party in connection with this Agreement.

6.4 No Other Rights. All right, title and interest in and to the Product are reserved to Scala, and no license is granted to SP with respect to the Product under this Agreement. Except as expressly set forth in this Agreement, no rights are granted to SP with respect to Documentation, and nothing shall be construed to prevent or limit Scala's direct and indirect marketing, distribution and Sale of any products or services in the Territory, including to End Users, OEMs and through Authorized Resellers and other resellers. Any unauthorized use or exploitation by a Party of the other Party's patents, copyrights, trade secrets, or other intellectual property or proprietary rights shall be considered a material breach of this Agreement by such Party.

7. Term and Termination.

7.1 Term. This Agreement shall commence upon the Effective Date and continue in full force and effect, unless earlier terminated in accordance with the terms of this Agreement.

7.2 Termination for Cause. In the event of a material breach of this Agreement, the non-breaching Party shall be entitled to terminate this Agreement by written notice to the breaching Party, if such breach is not cured within thirty (30) days after written notice is given by the non-breaching Party to the breaching Party specifying the breach.

7.3 Termination Other Than Cause. Each Party has the right to terminate this Agreement at any time by providing the other Party forty-five (45) days advance written notice. Partner entry or annual program fees are non-refundable upon termination of the Agreement.

7.4 Insolvency. In addition, each Party shall have the right to terminate this Agreement immediately by written notice upon the commencement of a petition, proceeding or case seeking the other Party's bankruptcy, or any insolvency, reorganization, liquidation, dissolution or winding-up, or readjustment of its debts, or seeking the appointment of a receiver, trustee or the like of itself or its assets, or otherwise seeking relief from its creditors and, in the case of an involuntary petition, proceeding or case, such petition, proceeding or case continues undismissed for, or an order approving or ordering any of the foregoing is entered and is not stayed within, sixty (60) calendar days.

7.5 Return of Property. Within thirty (30) days after any termination or expiration of this Agreement, each Party shall return to the other Party, or at the other Party's request destroy, all copies or portions of all information and materials containing or constituting Confidential Information or Trademarks of the other Party, provided however that a Party may retain such portions of Confidential Information to which it has surviving rights or licenses in this Agreement. At the other Party's request, a Party shall furnish to the other Party an affidavit signed by an officer of such Party certifying that, to the best of its knowledge, it has returned all Confidential Information to the extent required under this Section 7.5.

7.6 Survival. Articles and Sections 2.4(c), 2.7, 3.4(c) (last three sentences only), 4.2(b), 7 (with respect to any use prior to, and any use continuing after, any termination or expiration of this Agreement and only until such time as all use has terminated and Scala has been paid in full), 5.5, 5.6, 6, 7.5, 7.6, 7.7, 7.8, 7.9, 8.2, 8.3, 9, 10, 11, 12, and 13 of this Agreement shall survive any termination or expiration of this Agreement. Additionally, all rights granted to End Users in accordance with this Agreement shall survive, subject to the terms of this Agreement and the EULA, except that such rights shall terminate and expire in accordance with the terms of the applicable End User agreement and this Agreement. All terms and conditions of the EULA and this Agreement governing access to and use of the Product by the End User, shall survive termination and expiration of this Agreement until termination or expiration of the End User's rights and the End User agreement. In particular, but without limiting Sections 7.8 and 7.9, Product Use Terms per Section 4.8, shall survive termination or expiration of this Agreement to the extent of any continuing use by properly licensed End Users (including SP and its OEMs and Authorized Resellers). Notwithstanding anything to the contrary, all exclusivity under this Agreement shall terminate immediately upon either Party providing notice of termination to the other Party in accordance with this Agreement. Except as expressly set forth above, all terms and conditions of this Agreement shall terminate and have no further force or effect upon any termination or expiration of this Agreement.

7.7 Continuing Liability. Termination of this Agreement for any reason shall not release either Party from any liability which has already accrued as of the effective date of such termination, and shall not constitute a waiver or release of, or otherwise be deemed to prejudice or adversely affect, any remedies or claims, whether for damages or otherwise, which a Party may have hereunder, at law, equity or otherwise or which may arise out of or in connection with such termination.

7.8 No Liability for Termination. Except as expressly required by law, in the event of termination of this Agreement by either Party in accordance with any of the provisions of this Agreement, neither Party shall be liable to the other, because of such termination, for compensation, reimbursement or damages on account of the loss of prospective profits or anticipated Sales or on account of expenditures, inventory, investments, leases or commitments in connection with the business or goodwill of Scala or SP.

7.9 Purchase Orders; No Waiver. Except to the extent Scala elects not to provide such Product, SP shall be obligated to accept, and pay for, Product for which Product orders were issued prior to the effective date of termination or expiration of this Agreement. The acceptance of any order from or the provision of any Product after the termination or expiration of this Agreement shall not be construed as a renewal or extension of this Agreement nor as a waiver of termination of this Agreement. All provisioning of End User accounts after termination or expiration of this Agreement shall require pre-payment to Scala in advance.

7.10 Other Obligations Upon Termination.

(a) SP shall immediately cease using the Trademarks and discontinue all representations as a Scala Solutions Sales Partner;

(b) return to Scala any Not-For-Resale-Copies of Scala Products and other materials and information provided to SP;

(c) Scala shall be entitled to (1) reject all or part of any order received from SP after notice but prior to the effective date of termination and/or (2) require SP's performance of any outstanding Purchase Orders notwithstanding the fact that delivery dates for such orders may extend beyond the effective date of termination. Notwithstanding any credit terms made available to SP prior to that time, any Products shipped during said period shall be paid for in full by certified or cashier's check or any other means satisfactory to Scala prior to shipment; and

(d) SP shall submit to Scala within ten (10) days after the effective date of termination a summary of the number of the respective Products owned by SP as of the effective date of the termination. Scala may, at its option, repurchase any or all of such Products from SP at prices to be agreed upon between the parties, but in no event greater than the respective prices paid by SP for such Products. After Scala's receipt of the Products from SP, Scala will issue an appropriate credit to SP's account and refund any amount greater than the outstanding balance due Scala. The payment date of all monies due Scala shall automatically be accelerated so that they shall become due and payable on the effective date of termination, even if longer terms had been provided previously. If Scala chooses not to exercise its rights to repurchase SP's inventory, SP shall have sixty (60) days from the effective date of termination to distribute its inventory pursuant to the terms and conditions of this Agreement.

(e) Except as indicated in Section 7.6, Scala has the right to deactivate SP licenses.

8. WARRANTIES AND DISCLAIMER

8.1 Mutual. Each Party represents and warrants to the other that: (i) it has the right and power to enter into this Agreement and to fulfill its obligations hereunder; (ii) entering into, and performance of its obligations under, this Agreement does not and will not violate, and is not inconsistent with, any agreements between such Party and any third parties or any applicable laws or regulations; and (iii) it shall comply with the requirements of any and all applicable federal, state, local, and other laws, regulations, rules and orders of any governmental body having jurisdiction over such Party or the activities of such Party contemplated by this Agreement.

8.2 By SP. No representations or warranties shall be made by or under authority of SP, its Affiliates, OEMs, or Authorized Resellers with respect to the Product that have not been provided by Scala to SP in writing or that exceed the scope of Scala's then

current literature made publicly available by Scala for the Product. Except as may be set forth in the EULA, SP agrees that any and all representations and warranties, whether express, implied, statutory, or otherwise, shall be disclaimed on Scala's behalf.

8.3 Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN SECTIONS 8.1 AND 8.2 ABOVE, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THIS AGREEMENT, EXPRESS, STATUTORY, IMPLIED, OR OTHERWISE, INCLUDING WITH RESPECT TO THE PRODUCT, AND EACH PARTY HEREBY DISCLAIMS AND EXCLUDES ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SCALA DOES NOT REPRESENT OR WARRANT THAT THE PRODUCT, OR THE WEB SITE OR FACILITIES USED TO PROVIDE THE PRODUCT, WILL BE ERROR FREE OR SECURE.

9. CONFIDENTIAL INFORMATION.

9.1 Confidential Information. Confidential Information shall be treated in accordance with the terms and conditions of the Non-Disclosure Agreement executed between both Parties. The terms and conditions of the Non-Disclosure Agreement are hereby incorporated into this Agreement.

10. INDEMNIFICATION

10.1 Indemnification of SP. Scala shall indemnify and hold harmless each of SP and its Affiliates, and the directors, officers, employees, customers, licensees, and contractors of SP and such Affiliates, and their successors and assigns any of the foregoing (the "SP Indemnitees"), from and against any and all liabilities, damages, settlements, claims, actions, suits, proceedings, penalties, fines, costs and expenses (including reasonable attorneys' fees and other expenses of litigation) incurred by the SP Indemnitee based upon a claim of a non-Affiliate third party to the extent resulting from: (a) a breach by Scala of any of its representations or warranties in this Agreement; (b) the negligence, or illegal or willful misconduct, of Scala in connection with this Agreement or the Product; or (c) Scala's infringement of a registered US copyrights or valid US patent of a third party in creating or providing the Product under this Agreement. However, Scala will not be obligated to indemnify or hold SP harmless from any such action unless SP notifies Scala in writing of any claim within ten (10) days after it learns of such a claim, gives Scala sole control of the defense and settlement thereof and provides all reasonable assistance in connection therewith. If any Scala Product is finally, conclusively and irrevocably adjudged to infringe the intellectual property rights of a third party, or in Scala's opinion is likely to become the subject of an injunction, Scala shall, at its option and expense, either: (i) procure for SP the right to continue using the Product; (ii) modify or replace the Product to make it non-infringing; or (iii) REFUND the fee paid, less reasonable depreciation, upon return of the Product. Scala shall have no liability regarding any infringement claim arising out of: (w) use of the Products in combination with non-Scala software, data or equipment if the infringement was caused by such use or combination; (x) any modification, alteration or derivation of the Products made by or on behalf of SP; or (y) SP's use of third party software or works of authorship in conjunction with the Products. THE FOREGOING STATES SCALA'S ENTIRE LIABILITY AND SP'S EXCLUSIVE REMEDY FOR INFRINGEMENT OR CLAIMS OF INFRINGEMENT OF ANY COPYRIGHT, PATENT AND OTHER PROPRIETARY RIGHTS BY THE SOFTWARE.

10.2 Indemnification of Scala. Except to the extent that Scala is required to indemnify SP under Section 10.1, SP shall indemnify and hold harmless each of Scala and its Affiliates, and the directors, officers, employees, customers, licensors, and contractors of Scala and such Affiliates, and their successors and assigns any of the foregoing (the "Scala Indemnitees"), from and against any and all liabilities, damages, settlements, claims, actions, suits, proceedings, penalties, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and other expenses of litigation) incurred by any Scala Indemnitee based upon a claim of a non-Affiliate third party to the extent resulting from: (a) a breach by SP of any of its representations or warranties in this Agreement; (b) the negligence, or illegal or willful misconduct, of SP, its OEMs, Authorized Resellers, or any End Users in connection with this Agreement or any Product; (c) any failure to support End Users, OEMs or Authorized Resellers; (d) any representations, warranties, or covenants made with respect to the Product, beyond the EULA or beyond the representations and warranties made by Scala directly to its other customers; (e) otherwise arising out of the marketing, promotion, commercialization or use of the Product pursuant to this Agreement.

10.3 Procedure. A Party that intends to claim indemnification under this Article 11 (the "Indemnitee") shall promptly notify the other Party (the "Indemnitor") in writing of any claim, in respect of which the Indemnitee intends to claim such indemnification, and the Indemnitor shall have sole control of the defense and settlement thereof. The indemnity arrangement in this Article 10 shall not apply to amounts paid in settlement of any action with respect to a claim, if such settlement is effected without the consent of the Indemnitor, which consent shall not be withheld or delayed unreasonably. The failure to deliver written notice to the Indemnitor within a reasonable time after the commencement of any action with respect to a Claim, if prejudicial to its ability to defend such action, shall relieve such Indemnitor of any liability to the Indemnitee under this Article 10 but the omission so to deliver written notice to the Indemnitor shall not relieve the Indemnitor of any liability that it may have to any Indemnitee other than under this Article 10. The Indemnitee under this Article 10 shall cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any action with respect to a claim covered by this indemnification, at the Indemnitor's expense. Notwithstanding the foregoing, *provided that* the Indemnitor has performed its obligations in accordance with this Section 10, the Indemnitor shall not be responsible for any costs or expenses incurred without the prior written consent of the Indemnitor.

11. Limitations of Liability

EXCEPT FOR EITHER PARTY'S LIABILITY ARISING UNDER ARTICLE 9, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR LOST PROFITS OR REVENUE, COST OF SUBSTITUTE GOODS OR SERVICES, OR ANY SPECIAL, CONSEQUENTIAL, RELIANCE, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE.

EXCEPT FOR ANY UNAUTHORIZED USE OR EXPLOITATION BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY OR A FAILURE TO COMPLY WITH ARTICLE 9, AND EXCLUDING EACH PARTY'S RESPONSIBILITIES UNDER ARTICLE 10, IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL PAYMENTS

MADE BY SP TO SCALA FOR PRODUCTS ORDERED DIRECTLY FROM SCALA DURING THE TWELVE MONTHS PRECEDING IMPOSITION OF SUCH LIABILITY.

THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN.

12. COMPLIANCE WITH LAWS

12.1 Export Control. SP understands and acknowledges that Scala is subject to regulation by agencies of the United States Government, including, but not limited to, the U.S. Department of Commerce, which prohibit export or diversion of certain products and technology to certain countries. Any and all obligations of Scala shall be subject in all respects to such laws and regulations as shall from time to time govern the license and delivery of technology and products abroad by persons subject to the jurisdiction of the United States, including without limitation the U.S. Export Administration Act of 1979, as amended, any successor legislation, and the Export Administration Regulations issued by the U.S. Department of Commerce, Bureau of Export Administration. SP agrees to cooperate with Scala including without limitation, providing required documentation, in order to obtain export licenses or exemptions there from. SP warrants that it will comply with the U.S. Export Administration Regulations and other laws and regulations governing exports in effect from time to time.

12.2 Governmental Approvals. SP represents and warrants that it has obtained and shall obtain all required approvals of the applicable governments in the Territory to market and commercialize the Product in the Territory.

13. General Provisions.

13.1 Nature of Relationship. The relationship of Scala and SP established by this Agreement is that of independent contractors, and neither Party is an employee, agent, partner or joint venturer of the other. All financial obligations associated with SP's business are the sole responsibility of SP. All Sales, service and other agreements between SP and its End Users, OEMs, and Authorized Resellers are SP's exclusive responsibility and will have no effect on SP's or Scala's obligations under this Agreement. Neither Party shall hold itself out to be an agent or representative of the other. Neither Party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other Party or to bind the other Party in any respect whatsoever.

13.2 Entire Agreement. This Agreement contains the entire agreement between the Parties relating to the subject matter contemplated by this Agreement and supersedes all prior and contemporaneous written and oral agreements, representations or promises of the Parties (if any), relating to such subject matter.

13.3 Assignment. SP shall not assign or otherwise transfer this Agreement, or its rights or obligations under this Agreement, whether directly or indirectly, without the prior written consent of Scala, and this Agreement shall terminate automatically in the event of any merger or change of control of SP unless SP has obtained Scala's prior written consent to the merger or change of control. Scala shall have the right to assign and otherwise transfer this Agreement as a whole to any successor to all or substantially all of Scala's business or assets, whether by sale of stock or assets, merger, operation of the law, or otherwise. Any assignment or transfer in violation of the foregoing shall be void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns.

13.4 Foreign Corrupt Practices Act. In conformity with the United States Foreign Corrupt Practices Act and with Scala's established corporate policies regarding foreign business practices, SP and its employees and agents shall not directly or indirectly make any offer, payment, or promise to pay; authorize payment; or offer a gift, promise to give, or authorize the giving of anything of value for the purpose of influencing any act or decision (including a decision not to act) of an official of any government or inducing such a person to use his or her influence to affect any such governmental act or decision in order to assist Scala or SP in obtaining, retaining or directing any business.

13.5 Governing Law. THIS AGREEMENT, AND ALL DISPUTES ARISING OUT OF OR RELATING TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES OF PENNSYLVANIA OR ANY OTHER JURISDICTION.

13.6 Arbitration. The Parties shall try in good faith to resolve any dispute or claim related to or arising out of this Agreement, or the interpretation, making, performance, breach or termination thereof, amicably by themselves. If the Parties should resolve such dispute or claim, a memorandum setting forth their agreement will be prepared and signed by both Parties if requested by either Party. If the dispute or claim is not resolved by the Parties themselves, then it shall be finally settled by arbitration in accordance with the then current rules of arbitration of the American Arbitration Association (the "Rules") by three (3) arbitrators, one selected by each party and the third selected in accordance with such rules. Such arbitration shall be held in Philadelphia, Pennsylvania, and the proceedings and all pleadings, filings, written evidence, decisions and other relevant documents shall be in English. Any written evidence in a language other than English shall be submitted with an English translation. Any final decision issued in the arbitration shall be binding and conclusive upon the parties to this Agreement and may be entered as a final judgment by any court of competent jurisdiction. Notwithstanding the foregoing, the Parties may apply to any court of competent jurisdiction for temporary or permanent injunctive relief without breach of this Section 14.6. Each Party shall bear its own costs in connection with the foregoing arbitration.

13.7 Interpretation. The headings in this Agreement are for ease of reference only and do not affect the substance of any provision. Words denoting the singular include the plural and vice versa. Words denoting any one gender include all genders. All references to a statutory provision shall be construed as including references to any statutory modification or re-enactment thereof (whether before or after the date of this Agreement) for the time being in force.

13.8 Modifications to Agreement. Without limiting a Party's rights to update Exhibits as expressly contemplated in this Agreement, no provisions of this Agreement (including, without limitation, the Exhibits attached hereto) may be amended or modified, in whole or in part, otherwise than by an instrument in writing signed by both Parties or their successors or permitted assignees.

13.9 Force Majeure. Neither Party shall be liable to the other for delays or failures in performance resulting from causes beyond the reasonable control of that Party, including acts of God; acts of government or its agencies, including laws, regulations, and judicial action; strikes or other labor disputes or disturbances; power disruptions; riots or civil disturbances; acts of war; or communication, utility or transportation failures, or failure of supply. The obligation of the Party unable to perform, as set forth in this Section 13.9 ("Delayed Party") shall be suspended, and non-performance shall be excused, during such force majeure event, subject to the Delayed Party's compliance with the following. The Delayed Party shall give the other Party written notice of its inability to perform and a description, in reasonable detail, of the cause of the inability and will use diligent efforts to remedy the situation and remove, so far as is commercially reasonable and as soon as practicable, the cause of such inability. The Delayed Party shall give the other Party prompt notice of the cessation of the event of force majeure. In the event that the Delayed Party is unable to remove the force majeure event, and resume performance in accordance with the other terms of this Agreement, within ninety (90) days of the occurrence of the event, each Party shall have the right to terminate this Agreement by providing written notice of termination to the other.

13.10 No Third Party Beneficiaries. This Agreement shall inure to the benefit of, and be binding upon, each of the Parties and their respective successors and permitted assignees, subject to the provisions of this Agreement, but shall not inure to the benefit of any third party.

13.11 Severability and Invalidity. In the event that any provisions of this Agreement be found to be, in whole or in part, invalid or unenforceable by a court of competent jurisdiction, the validity or enforceability of the remaining provisions under applicable law will not be affected thereby and shall remain binding upon the Parties. Any such invalid or unenforceable provisions shall be substituted by a valid or enforceable provision which, in its essential purpose, comes as close as possible to the invalid or unenforceable provision; the same applies mutatis mutandis to any gaps in this Agreement.

13.12 Waivers. The failure of either Party to enforce or to exercise, at any time or for any period of time, any right or remedy arising pursuant to or under this Agreement does not constitute, and shall not be construed as, a waiver of such right or remedy and shall in no way affect that Party's right to enforce or exercise it at a later time, provided that such right or remedy is not time-barred or otherwise precluded by law or by a writing expressly waiving such right or remedy and signed by that Party seeking to assert such right or remedy.

13.13 Exhibits. All exhibits to this Agreement are an integral part of this Agreement as if fully set forth herein. All references herein to an exhibit shall be deemed to be references to an exhibit of this Agreement unless the context shall otherwise require.

13.14 Notices. All notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given to the recipient when (i) delivered by hand, (ii) sent by facsimile (with receipt confirmed by a machine-generated transmission record), provided that a copy is concurrently mailed by one of the other methods in this Section 13.14, or (iii) when received by the addressee, if sent by courier service (return receipt requested) or by registered or certified mail, postage prepaid, return receipt requested, in each case to the appropriate addresses set forth below (or to such addresses and/or facsimile numbers as a Party may hereafter designate as to itself by written notice to the other Party).

If to: SP

If to: Scala, Inc.
350 Eagleview Boulevard, Suite 350
Exton, PA 19341
Attn: CFO
Fax: +1 610-363-4010

13.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all of which taken together shall constitute one and the same agreement.

13.16 Language. This Agreement has been produced in the English language and the negotiations relating to this Agreement were conducted in English; any translations are for working purposes only and have no influence on the interpretation of this Agreement.

13.17 Announcements. Except as otherwise expressly permitted herein or required by applicable law, all press releases and other public announcements by either Party concerning this Agreement or its subject matter must be approved in writing by the other Party, such approval not to be unreasonably withheld or delayed, prior to their release or publication.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the date first hereinabove written.

Scala, Inc.

SP

By: _____
Name:

By: _____
Name:

Title:

Title:

Date:

Date:

CONFIDENTIAL

EXHIBIT 1.14
SCALA TRADEMARKS

The registered trademarks of Scala, Inc. include:

- Scala
- InfoChannel
- The Exclamation Point Logo

CONFIDENTIAL

EXHIBIT 4.4
SP SCALA PRICE LIST