

MERCHANT AFFINITY AGREEMENT

THIS AGREEMENT made as of the ___ day of _____, 202_.

B E T W E E N

Merchant Name: _____

being a corporation incorporated pursuant to the laws of the Province of [Province] and having its registered office at

Address: _____

Fax: _____

Email: _____

(hereinafter called the “**Merchant**”)

OF THE FIRST PART

And

ST. CLAIR COLLEGE ALUMNI ASSOCIATION INCORPORATED

being a corporation incorporated pursuant to the laws of the Province of Ontario and having its registered office at 2000 Talbot Road, Windsor, Ontario N9A 6S4 (hereinafter called “**SCCAA**”)

OF THE SECOND PART

WHEREAS:

- A. SCCAA has an alumni base of approximately 135,000, which is increasing by about 7,500 alumni per year;
- B. SCCAA has engaged a third-party applications provider (the “App Provider”) to produce, disseminate and manage a software application (the “**Perks App**”) to offer SCCAA alumni certain opportunities to obtain certain advantages, benefits, discounts and/or other perquisites from suppliers and merchants (the “**Perks Program**”); and
- C. Merchant wishes to participate in the Perks Program at the Standard level, and to offer a product, service or benefit to all SCCAA alumni at a discounted rate or exclusive upgrade to the SCCAA alumni members, as described in this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that the parties agree as follows:

1. Sponsorship Period

This Agreement shall be deemed to have commenced on September 1, 2023, and shall continue until it is terminated on September 1, 2024 (the “**Term**”) unless renewed or earlier terminated.

2. Renewal and Termination

This Agreement shall terminate upon the expiry of the Term of this Agreement, unless it is renewed by written agreement signed by the parties. In the absence of a signed written renewal agreement, this Agreement shall be deemed to be terminated. This Agreement may be terminated by SCCAA, without cause, by giving the Merchant thirty (30) days prior written notice of termination. This Agreement will terminate immediately without notice upon (i) default by the Merchant under this Agreement, (ii) the bankruptcy or insolvency of the Merchant, (iii) the termination of the Perks Program, (iv) the unavailability of the Perks App for a period of five (5) or more consecutive days.

3. SCCAA Perks Program

- a. **App Details:** The Perks App is a free app made available by the Apps provider to all SCCAA alumni, with the ability to offer exclusive offers and benefits to the SCCAA alumni. Neither SCCAA nor any other person on behalf of SCCAA has made any representation or warranty, expressed or implied, as to the quality, accuracy, or availability of the Apps Program, or any volume of alumni use, business, purchase or potential profit arising from the Merchant's participation in the Perks Program, or any other matter related to the matters provided for in this Agreement., Merchant agrees that it has not relied on any representation or warranty from SCCAA or any other person on behalf of SCCAA in determining to enter into this Agreement, and hereby releases SCCAA, all other persons acting on behalf of SCCAA and The St. Clair College of Applied Arts and Technology from any and all liability to Merchant or any other person with respect to the Perks Program or any other matter arising by virtue of this Agreement.
- b. **Status:** The Merchant will be advertised as a Perks Program Partner within the app as well as on the SCCAA alumni website.
- c. **SCCAA Deliverables:** the SCCAA shall provide the following to the Merchant:
 - i. Logo & hyperlink listed on SCCAA Alumni website (bcit.ca/alumni)
 - ii. Logo & offer/benefit displayed in Perks App
 - iii. Benefit information included in SCCAA Alumni e-newsletter (2x/year)
 - iv. Special promotion highlights in Perks App
 - v. Promotional opportunities at SCCAA Alumni Events
 - vi. Social media recognition on SCCAA Alumni social platforms (4x/year)
 - vii. Merchant name included in the SCCAA Alumni Association Annual report
 - viii. Logo included in the SCCAA Alumni Association Annual report.
 - ix. Confirmation of SCCAA alumni membership and eligibility to participate in and receive benefits pursuant to, the Perk Program, upon request by Merchant.
- d. **Merchant Responsibilities:** The Merchant agrees to provide the following to SCCAA:
 - i. ***[Description of benefit offered to Alumni]***
 - ii. High resolution jpeg and eps logos, in colour and black/white
 - iii. Hyperlink to desired Merchant landing page
 - iv. Information on how the benefit or discount will be accessed by Alumni,(i.e. promo code, digital card in app)
 - v. Content/copy to describe the benefit or discount
 - vi. Staff trained to understand and properly manage and implement the Perks Program.

- vii. A non-exclusive, non-transferable and non-assignable temporary licence to use the Merchant's logos and trademarks during the Term of this Agreement for promotional, marketing and advertising purposes in connection only with the Perks Program.
- e. **Logos:** The Merchant shall have a non-exclusive, non-transferable and non-assignable temporary licence to use the SCCAA logos during the Term of this Agreement for promotional and advertising purposes in connection only with the Perks App
- i. Whenever the Merchant uses the SCCAA logo, it shall use the logo in its complete form without any change, and subject in all cases to obtaining the prior written consent of SCCAA to the form of use.
 - ii. The Merchant shall have the right to use its Status with or without the SCCAA logo for promotional and advertising purposes in connection with the Perks App.
 - iii. Merchant shall not use, register, or attempt to register in any jurisdiction any logo or trademark that is confusingly similar to or incorporates SCCAA's logos or trademarks. All uses of SCCAA's logs and trademarks, and all goodwill associated therewith, shall enure solely to the benefit of SCCAA, which shall retain all right, title, and interest in and to its logos and trademarks.
 - iv. On expiration or earlier termination of this Agreement, all licences granted hereunder by SCCAA will also terminate and Merchant shall immediately cease using SCCAA's logos and trademarks.
4. **Indemnification:** Merchant shall indemnify, defend, and hold harmless SCCAA and The St. Clair College of Applied Arts and Technology, and each of their respective governors, officers, directors, employees, agents, successors, and assigns (each, an "Indemnitee") from and against all any and all claims, demands, actions, expenses, fees, costs (including legal costs on a full indemnity basis) resulting from any legal action, arbitration or other proceeding whatsoever arising out of or related to (i) the Merchant's goods and/or services offered through the Perks Program and (ii) Merchant's breach of any representation, warranty, covenant, or obligation under this Agreement.
5. **Confidentiality:** In connection with this Agreement, SCCAA may disclose or make available confidential information to Merchant including, but not limited to, the names of SCCAA Alumni members. Merchant shall:
- a. not access or use SCCAA's confidential information other than as necessary to exercise its rights or perform its obligations under this Agreement;
 - b. not use SCCAA's confidential Information, directly or indirectly, in any manner to the detriment of SCCAA or its alumni members;
 - c. not disclose or permit access to SCCAA's confidential information other than to its employees who: (A) need to know such confidential information for purposes of the exercise of Merchant's rights or performance of its obligations under and in accordance with this Agreement; (B) have been informed of the confidential nature of the confidential information and the Merchant's obligations under this Agreement; and (C) are bound by confidentiality and restricted use obligations at least as protective of the confidential information as the terms set forth in this Agreement; and

- d. safeguard the SCCAA's confidential information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its own confidential information and in no event less than a reasonable degree of care.

6. General:

- a. Each Party represents and warrants to the other Party that: (i) it is a legal entity duly organized, validly existing, and in good standing as a corporation or other entity as represented herein under the Laws of its jurisdiction of incorporation or formation; (ii) it has the full right, power, and authority to enter into this Agreement, to grant the rights and licences granted hereunder, and to perform its obligations hereunder; (iii) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party; and (iv) when executed and delivered by the Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.
- b. Merchant further represents and warrants that Merchant's logos and trademarks and SCCAA's use thereof in accordance with this Agreement will not infringe, misappropriate, or otherwise violate any rights including, but not limited to, intellectual property rights, of any third party or result in any claims, demands, or actions against SCCAA.
- c. Upon a party's reasonable request, the other party shall, at no cost to itself, execute and deliver all such documents and instruments, and take all such further actions, reasonably necessary to give full effect to this Agreement.
- d. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- e. Neither party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or use the other party's logos and/or trademarks except as expressly permitted under this Agreement, nor without the prior written consent of the other party[, which shall consent shall not be unreasonably withheld, conditioned or delayed.
- f. This Agreement constitutes the entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.
- g. Neither party may assign, or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without the other party's prior written consent, which consent may be unreasonably and/or arbitrarily withheld.
- h. This Agreement is binding upon and inures to the benefit of the parties and their respective permitted successors and permitted assigns.
- i. No amendment to or modification of this Agreement is effective unless it is in writing[, and signed by an authorized representative of each party.
- j. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set out in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof.

- k. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- l. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- m. This Agreement may be executed in counterparts, each of which is deemed an original, and all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF the parties have executed this Agreement effective as of the date first written above as attested by the hand of their duly authorized officers in that behalf.

**ST. CLAIR COLLEGE ALUMNI
ASSOCIATION INCOPORATED**

MERCHANT NAME:

Name:
Title:
I have authority to bind the Corporation

Name:
Title:
I have authority to bind the Corporation