

# Vivvo Authorized Reseller (VAR) Agreement

This Agreement is made and executed between:

**Spoonlabs d.o.o.**, a company incorporated under the laws of Serbia (MB 20180269) having its registered office at P. Solidarnosti Str., 11070 Belgrade, Serbia (hereinafter referred to as the "**Company**" which expression shall unless repugnant to the context thereof shall mean and include its successors and assigns) of the First Part;

And

\_\_\_\_\_. (hereinafter referred to as the "**VAR**" which expression shall unless repugnant to the context thereof shall mean and include his assigns) of the other Part;

The Company and the VAR shall be hereinafter collectively referred to as "**Parties**" and individually as "**Party**".

BY BECOMING AN SPOONLABS SOLUTIONS RESELLER, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THE COMPANY TO THE TERMS OF THIS AGREEMENT. THE TERM "VAR" REFERS TO: (1) THE COMPANY, ITS OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES AND USERS, OR (2) AN INDIVIDUAL, IN THE CASE OF A NON-LEGAL ENTITY, AS DEFINED IN THE REGISTRATION INFORMATION PROVIDED TO SPOONLABS SOLUTIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, DO NOT BECOME A RESELLER OF SPOONLABS SOLUTIONS.

## 1. Introduction

This Agreement is made and effective upon acceptance, by and between Spoonlabs d.o.o. and VAR.

Whereas the Company is engaged in the business of LAMP software development (especially under [www.vivvo.net](http://www.vivvo.net), referred to as "**Products**"), and whereas the VAR is engaged in the business of regional sales;

The Company has agreed to appoint the VAR for the aforesaid purpose on certain terms and conditions.

## 2. Nonexclusive Appointment

VAR is hereby appointed a nonexclusive reseller of the Products for sale pursuant to this Agreement. VAR accepts such appointment and agrees to serve as a reseller of the Products to end users as provided herein. This Agreement is not exclusive to VAR, and Company reserves the unrestricted right to sell, license, market and distribute or to grant to others the right to sell, license, market and distribute the Products and value added versions thereof anywhere in the world.

### **3. Price and Discounts**

Prices, discounts, and other terms, if any, for the Products are subject to change at any time.

### **4. Product Changes**

Company d.o.o. has the right to modify, alter, amend or delete from the Products at any time at its discretion. VAR agrees not to remove from the Products any copyright notice included therein.

### **5. Compensation and Payment terms**

In consideration of the services being provided the Consultant's fee will be commissionable based on achieved monthly sales:

- 25% commission - Sales under \$2,000 USD
- 30% commission – Sales between \$2,000 and \$5,000 USD
- 35% commission - Sales between \$5,000 and \$10,000 USD
- 40% commission - Sales over \$10,000 USD

This includes both software license sales as well as contracts to various business entities for Vivvo-based website deployment.

It is agreed by VAR that all taxes payable by VAR under this agreement shall be borne by VAR.

The Company shall under no circumstances be responsible for any other payment to the VAR except as specifically mentioned in this Agreement.

### **6. Limitation of Liability**

IN NO EVENT SHALL COMPANY BE LIABLE TO VAR FOR INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR PROFITS, WITH A CLAIM BY REASON OF BREACH OF WARRANTY OR BASED ON CONTRACT, STRICT LIABILITY OR OTHERWISE, REGARDLESS OF WHETHER SPOONLABSHAS BEEN ADVISED OF THE RISK OF SUCH DAMAGES IN ADVANCE.

### **7. Indemnity**

- a. VAR agrees to indemnify and hold harmless Company from and against loss, suit, damage or claim including reasonable attorney's fees and costs, arising out of or connecting with the sale, sublicense or use of any of the Products that have been modified by VAR or anyone else.
- b. Company shall, at its own expense, defend any suit that may be instituted against VAR or any end user customer of VAR for any alleged infringement of any United States patent, trademark or copyright related to the Product as provided by Company hereunder, provided that:
  - i. Such alleged infringement consists only of the use of the Product in the manner for which the Product was designed by itself, and does not relate to any modification or alteration or combination with other works.
  - ii. VAR gives Company immediate notice in writing of any such suit and permits Company, with counsel of its choice, to defend such suits.

- iii. VAR provides Company all of the necessary information, assistance and authority, to enable Company to defend such suit, and similarly causes all VAR's end user customers to similarly provide all needed information, assistance and authority, all at VAR's expense.
- iv. Company's indemnity shall not apply with respect to any claim arising out of or based upon any modification or alteration of the Products created by or for Company.

## **8. Relationship of the Parties**

It is expressly understood and agreed that the relationship between the parties is solely that of "seller" and "buyer". VAR is not, and shall not be, a partner, agent, representative or joint venturer of Company. VAR has no authority to assume or create any obligation for or on behalf of Company, express or implied, with respect to the Products or otherwise.

## **9. Trademarks**

During the term of this Agreement, VAR shall have the right to indicate to the public that it is an authorized reseller of Company's Products and to advertise and promote Products under the trademarks, marks, and trade names of Company as Company may indicate to VAR from time to time ("Company's Trademarks"). VAR shall fully comply with all reasonable guidelines, if any, communicated by Company to VAR concerning the use of Company's Trademarks.

- a. Company hereby grants to VAR a limited, nonexclusive right to use Company regular trade names, trademarks, titles and logos (the "Licensed Marks") in the advertising, promotion and sale of the Products. VAR shall not make or permit alteration or removal of tags, labels, or identifying marks placed by Company on or within the Software program of any product. VAR will not use Company trade names or abbreviations (with the exception of a logo or mark or graphic design provided by Company which indicates VAR is an authorized reseller of Company) in VAR's corporate title, or name or in any way that might result in confusion as to separate and distinct identities of Company and VAR. Upon the expiration or earlier termination of this Agreement, the license granted to VAR in the Licensed Marks shall immediately terminate and VAR shall immediately cease and desist all use of the Licensed Marks.
- b. VAR recognizes and acknowledges Company ownership and title to the Licensed Marks and the goodwill related thereto and agrees that any goodwill which accrues because of VAR's use of such marks shall become the property of Company. VAR further agrees not to contest or take any action in opposition to any trademark, service mark, trade name or logo of Company or to use, employ or attempt to register any mark or trade name, which is similar to any mark or name of Company.
- c. VAR shall apply the Licensed Marks only to products which have been manufactured in accordance with the standards of quality in materials, design, workmanship, use, advertising and promotion set forth in Company trademark use specifications and product control specifications ("Control Specifications"), copies of which will be furnished to VAR in confidence pursuant to Section 7 of this Agreement.
- d. Company shall have the right at any time to conduct examination of products created by VAR to determine compliance of such products with the applicable Control Specifications. If at any time such products shall, in the sole opinion of Company, fail to conform with the standards of quality in materials, design,

workmanship, use, advertising, and promotion set forth in such Control Specifications, Company shall so notify VAR. Upon such notification, VAR shall promptly cease to use the Licensed Marks on such products and shall not sell such nonconforming products until the standards of quality contained in the applicable Control Specifications have been met to the satisfaction of Company.

## **10. Terms and Termination**

- a. This Agreement shall commence upon acceptance and continue for a Term of one year. Thereafter, this Agreement shall continue until a party shall give notice to the other party of its desire to terminate this Agreement upon at least thirty (30) days prior written notice.
- b. In the event that VAR has failed to pay any amount when due or is in breach or default of any other material obligation set forth in this Agreement, then Company may notify VAR and if VAR has not paid the entire amount due or cured its other breach or default within 30 days following such notice, then Company may elect to terminate this Agreement.
- c. In the event of any other breach or default of any material obligation owed by Company in this Agreement, then the VAR may provide notice to Company and if such breach or default is not cured within 30 days following such notice, the Agreement may be terminated by VAR.

## **11. Severability**

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included.

## **12. Governing Law**

This Agreement shall be construed and enforced in accordance with the laws of Serbia.

## **13. Modification to Terms**

Company reserves the right to change the terms and conditions of this Agreement or its policies relating to the Products at any time and shall notify VAR by posting an updated version of this Agreement on the Company website. VAR is responsible for regularly reviewing this Agreement. Continued use of Products after any such changes shall constitute VAR's consent to such changes.