

This Sales Associate Agreement is made effective as of _____, 200____, ("Effective Date") between Reflective Educational Perspectives LLC, a California limited liability company, ("REP", "we", or "us") whose address is 1590 E. Main St., Ventura, CA, USA and

_____ ("Sales Associate", "Associate", or "you") whose address is

Tel: _____ Fax: _____

E-mail: _____

Website: _____

1. Appointment of Associate.

REP appoints the Sales Associate to independently solicit, in accordance with the terms and conditions of this Agreement, third-parties ("Client" or "Clients") to purchase and use products offered by REP to third-party Clients as set forth in Exhibit A ("Products"). By executing this Agreement, Sales Associate agrees to actively solicit Clients to purchase and use Products.

2. Orders & Acceptance.

Except as set out in **Exhibit A**, Associate shall have no authority to accept orders on behalf of REP or to commit REP to the sale or delivery of any products. No special orders obtained by Associate shall be binding on REP until accepted and approved by REP in writing, or, as appropriate, by REP's acceptance of payment through its online procedures. REP shall have the unqualified right to accept or reject any such special orders for any reason without obligation to Associate. Associate shall obtain and solicit orders either (a) at REP's then current prices under REP's standard terms and conditions, or (b) on the basis of terms and conditions that shall have received REP's prior approval. All solicitations of orders shall be made with the understanding that the orders are not effective until payment clears REP's bank.

3. Billing of Clients.

REP will bill the Client with respect to all Products solicited by Associate, and all payments by such Client shall be made directly to REP. Associate shall have no authority to make collections on behalf of REP from such Client although Associate agrees to assist REP in the collection of overdue accounts upon the request of REP.

4. Compensation.

REP will pay Associate compensation as set forth in **Exhibit A**. Such payments shall be compensation in full for the services of Sales Associate. For the purposes of compensation, a "sale" or "purchase" does not occur until Client has paid for Products in full.

5. Limitations With Respect to Promotion of REP or the Products.

- 5.1. Associate may promote the Products on a website or in other forms of print and electronic media.
- 5.2. Associate will not promote REP or the Products on any website or other media that contains, contains links to, or promotes sexually explicit materials, obscene speech, speech that tends to incite violence, acts of violence, discrimination on the basis of gender, race, sex, religion, age, nationality, sexual orientation, age, illegal activities, deceptive business practice, unfair competition, or violation of intellectual property rights. You also agree not to promote REP or the Products through the use of unsolicited commercial email (also known as "UCE" or "Spam"). Any breach of this term shall be grounds for immediate termination of this Agreement.

- 5.3. Associate will be solely responsible for the development, operation, and maintenance of Associate's website, if any, and for all materials that appear on your website. REP specifically disclaims any and all liability for such content except for any link or graphic provided by REP. Associate agrees to indemnify, defend, and hold REP harmless from all claims, damages and expenses (including without limitation attorney's fees) relating to the development, operation, maintenance and content of your website.
- 5.4. Associate will make no representations, guarantees, or claims concerning REP or the Products other than either in strict accord with material presented in print or electronic media, including website(s), created by REP, e.g., www.aselfportraitonline.com, or otherwise specifically authorized by REP in writing.
- 5.5. Upon REP's request, you will provide to REP within five working days a list of all websites displaying your Tagged Links and an exemplar of all email and printed materials that contain your Tagged Links or refer to REP or the Products.

6. REP's Intellectual Property.

- 6.1. **Definition of REP Intellectual Property.** REP's intellectual property shall include (i) all software furnished to Associate by REP, (ii) all technical and other information and material relating to design, development, operation, specifications, use and service of REP Products, and all copies thereof, (iii) REP marketing and product strategies and other material and information that could cause competitive harm to REP if disclosed to others, (iv) the identity of REP Clients and prospective Clients and lists embodying such information, (v) the intellectual property otherwise created or owned by REP, and (vi) information of REP's Clients.
- 6.2. **Agreement re Intellectual Property.** Associate agrees to retain REP intellectual property as strictly confidential and not to use it or cause it to be used for purposes not related to this Agreement, or disclose it to any third party, except as authorized by REP in writing and pursuant to an agreement acceptable to REP, for a period of ten (10) years from the date this Agreement terminates. Upon termination of this Agreement, Associate agrees to surrender to REP all tangible forms of REP intellectual property, which it may then possess or have under its control. The obligation to maintain intellectual property in confidence shall survive termination or expiration of this Agreement. Nothing in this Agreement shall be deemed to give Associate any rights, whether by ownership, use, or in any other form, in REP's Intellectual Property.
- 6.3. **Exclusions from definition of REP Intellectual Property.** The obligations of this section 6.2 shall not apply to any portion of REP Intellectual Property that (i) is or becomes part of the public domain through no fault of Associate, (ii) is received from a third party without breach of an obligation owed to REP or its Client, (iii) is independently developed by Associate.
- 6.4. The provisions of this section 6 are intended to supplement, not limit, modify, or in any other way compromise, legal rights held by REP under copyright, trade secret or any other applicable laws granting protection of owner's rights in intellectual properties. The parties agree that REP retains all such rights to the maximum extent permitted by law.

7. Termination of Agreement.

7.1. Provisions Regarding Termination.

- 7.1.1. **Termination for cause. REP may terminate** this Agreement at any time without notice if Associate commits any material breach of this Agreement, or commits any material act of dishonesty, discloses confidential information, is guilty of gross carelessness or misconduct, or unjustifiably neglects his duties under this Agreement, or acts in any way that has a direct, substantial, and adverse effect on REP's reputation. **Associate may terminate** this Agreement upon written notice to REP upon occurrence of any material breach hereof by REP, if REP has not cured such breach for a period of 60 days after receipt of written notice from the Associate.
- 7.1.2. **Termination because of death or disability.** If, at the end of any calendar month during the term of this Agreement, Associate is and has been for the four consecutive full calendar months then ending, or for 80 percent or more of the normal working days during the six consecutive full calendar months then ending, unable due to mental or physical illness or injury to perform his or her duties under this Agreement in his or her normal and regular manner, this Agreement shall be then

terminated. If Associate dies during the initial term or during any renewal term of this Agreement, this Agreement shall be terminated on the last day of the calendar month of his or her death.

7.1.3. **Term of Agreement.** Unless otherwise terminated earlier by the provisions of paragraphs 7.1.1 or 7.1.2, or otherwise extended by a written amendment between the parties, this Agreement will terminate at 12:01 AM on the 366th day after the Effective Date of this Agreement.

7.1.4. **REP has right to terminate or assign Agreement.** In the event of a merger in which REP is not the surviving entity, or of a sale of all or substantially all of REP's assets, REP may, at its sole option (1) assign this Agreement and all rights and obligations under it to any business entity that succeeds to all or substantially all of the REP's business through that merger or sale of assets, or (2) on at least 30 days prior written notice to Associate, terminate this Agreement effective on the date of the merger or sale of assets.

7.2. Payment of Commission after Termination.

7.2.1. If this Agreement is terminated by REP for cause as set forth in section 7.1.1, no compensation shall be due to Associate after the termination.

7.2.2. If REP terminates this Agreement without cause or under section 7.1.2, REP shall pay to Associate any compensation earned by Associate up to the date of termination.

7.2.3. If Associate terminates this Agreement, no compensation shall be due to Associate after the termination.

8. Covenant Not To Compete.

REP agrees that the Associate may sell the profiles and materials of REP competitors. Associate agrees to be a neutral broker of such competing products; and in keeping with §6 above, Associate agrees to implement and use procedures that protect REP's intellectual property from unfair appropriation by competitors. Additionally, for the term of this agreement and for two years after its termination, Sales Associate agrees to not develop a learning styles profile.

9. Associate Is An Independent Contractor.

Associate is an independent contractor and neither Associate nor Associate's staff is, or shall be deemed, REP's employees. In its capacity as an independent contractor, Associate agrees and represents, and REP agrees, as follows: Associate has the right to perform services for others during the term of this Agreement subject to non-competition provisions set out in this Agreement. Associate has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed. Associate has the right to perform the services required by this Agreement at any place or location and at such times as Associate may determine. Associate will furnish all equipment and materials used to provide the services required by this Agreement. Associate or Associate's staff shall perform the services required by this Agreement, and REP shall not be required to hire, supervise or pay any assistants to help Associate. Associate is responsible for paying all ordinary and necessary expenses of its staff. Neither Associate nor Associate's staff shall receive any training from REP in the sales, business, or professional skills necessary to perform the services required by this Agreement. Neither Associate nor Associate's staff shall be required to devote full-time to the performance of the services required by this Agreement. REP shall not provide insurance coverage of any kind for Associate or Associate's staff. REP shall not withhold from Associate's compensation any amount that would normally be withheld from an employee's pay.

10. Disclaimer of Warranty & Limitation Of Liability.

REP makes no express or implied warranties or representations with respect to the salability of the Products or the Products (including, without limitation, warranties of fitness, merchantability, non-infringement, or any implied warranties arising out of a course of performance, dealing, or trade usage, which warranties are specifically disclaimed). In addition, REP makes no representation that the operation of its site will be uninterrupted or error-free, and Associate agrees that REP will not be liable for the consequences of any interruptions or errors.

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EXCEPT FOR COMMISSIONS DUE AND OWING TO ASSOCIATE, IN NO EVENT SHALL REP BE LIABLE TO ASSOCIATE FOR ANY DIRECT, INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLEGED IN TORT, CONTRACT OR INDEMNITY, ARISING OUT OF THE USE OF OR INABILITY TO USE OR LINK REP WEBSITES, LOSS OF PROFITS, REVENUE OR DATA, EVEN IF WE ARE INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THIS DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY IS A MATERIAL PROVISION OF THIS AGREEMENT AND REP WOULD NOT HAVE ENTERED INTO THE AGREEMENT WITHOUT THE INCLUSION OF THE PROVISIONS OF THIS PARAGRAPH 10.

11. Resolving Disputes.

- 11.1. **Mediation.** In the event of any dispute concerning the subject matter of this Agreement, the parties will first attempt to resolve the dispute by mediation. If the parties are unable to resolve the dispute by mediation, the parties may proceed in any manner available to them by law or equity.
- 11.2. **Injunctive Relief.** Associate is obligated under this Agreement to render services of a special, unique, unusual, extraordinary, and intellectual character, which give this Agreement peculiar value. The loss of these services cannot be reasonably or adequately compensated in damages in an action at law. Accordingly, in addition to other remedies provided by law or this Agreement, REP shall have the right during the term or any renewal term of this Agreement to obtain injunctive relief against the breach of this Agreement by Associate or the performance of services elsewhere by Associate, or both.

12. Miscellaneous Provisions.

- 12.1. **Integration.** This Agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between them, including all prior agreements, whether or not fully performed by Associate before the date of this Agreement. No oral modifications, express or implied, may alter or vary the terms of this Agreement. No amendments to this Agreement may be made except by a writing signed by both parties. Any representations contrary to this Agreement, express or implied, written or oral, are hereby disclaimed.
- 12.2. **Choice of law.** The formation, construction, and performance of this Agreement shall be construed in accordance with the laws of California without regard to any choice of law provisions. Any litigation under this Agreement shall be brought in the appropriate California State court sitting in the County of Ventura, California. Any mediation or arbitration under this Agreement shall be held in the County of Ventura, California.
- 12.3. **Notices.** Any notice to REP required or permitted under this Agreement shall be given in writing to REP, either by personal service or by registered or certified mail, postage prepaid, addressed to REP at its then principal place of business. Any such notice to Associate shall be given in a like manner and, if mailed, shall be addressed to Associate at the address set forth above. Associate will notify REP immediately if his or her mail and/or electronic addresses change. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of service, if served personally on the party to whom notice is to be given, or (b) on the second business day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this section.
- 12.4. **Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

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Exhibit A — Products & Compensation for Sales Associate

1) **The Products** to which this Agreement applies are volume sales of “A Self-Portrait™ Online Learning Style Profile” assessment as offered at REP’s website, www.aseelfportaitonline.com, or such other URL’s as REP may from time to time use for the offering of this product, to organizations and schools in quantities of not fewer than 50 Profile Keys per order in accord with REP’s then current terms and conditions, including REP’s price per Profile Key. REP reserves the right to change, from time to time and in its sole discretion, the terms and conditions under which it offers its Products, including pricing, which changes shall be effective upon notice being mailed to Associate. As of the date of this Agreement, the relevant terms and conditions appear at the REP website and the volume pricing is as follows:

a) **Sales to Groups, Private Schools, Programs.** The minimum sale is 50 Profile Keys.

For orders of:

50	the price is	\$ 600.00
100		\$ 1,000.00
500		\$ 4,000.00
1000		\$ 6,000.00

b) **Sales to Public Schools, Charter Schools.** The minimum sale is 1000 Profile Keys.

For orders of:

1000	the price is	\$ 1,500.00
5000		\$ 5,000.00
10,000		\$ 7,500.00
50,000		\$ 25,000.00

c) **Sales Associate Compensation:** Forty-five percent (45%) of the sales price of each order defined in paragraph 1 above, not including any sales or other taxes as may be imposed on sales of the Products, less any sums that REP refunds to Clients. This compensation will be paid to Associate by the 10th day of the month following receipt of payment for each order.

2) **Recruitment of Web Associates.**

a) When the Sales Associate conducts sales presentations or outreach to personnel of a business or entity (including a private school) with a website presence (other than the Sales Associate’s own website or websites) and as a result of that contact the business or entity enters into an REP Web Associate agreement, the further products to which this Agreement applies are **Web Associate** individual and small group sales of “A Self-Portrait™ Online Learning Style Profile” assessment as offered at REP’s website, www.aseelfportaitonline.com, or such other URL’s as REP may from time to time use for the offering of this product, in accord with REP’s then current terms and conditions, including REP’s price per Profile Key. REP reserves the right to change, from time to time and in its sole discretion, the terms and conditions under which it offers its Products. As of the date of this Agreement, the relevant terms and conditions appear at the REP website and pricing available for orders placed using the Web Associate’s ID Code or through the Web Associate’s Tagged Links is \$20 per Profile Key in quantities of less than three Profile Keys per order, or \$15 per Profile Key in quantities of three or more Profile Keys per order. These prices do not include any sales, use, or other taxes as may be imposed on sales of the Products. (For the Web Associate compensation on such sales, see REP’s Web Associate Agreement.)

b) **Sales Associate Compensation** on the recruited Web Associate sales: For the term of the first 365 days (at most) of the Web Associate agreement of each such entity recruited by the Sales Associate, Sales Associate compensation is ten percent (10%) of REP’s sales revenues on sales defined in paragraph 2 above, not including any sales or other taxes as may be imposed on sales. This compensation will be paid to the Sales Associate by the 10th day of the month following any month in which the aggregate compensation due and payable to the Sales Associate equals or exceeds \$25.

3) Referral of Individual Purchasers.

a) When the Sales Associate conducts sales presentations or outreach and as a result of that contact Individuals purchase Profile Keys, the further products to which this Agreement applies are Individual Sales of "A Self-Portrait™ Online Learning Style Profile" assessment as offered at REP's website, www.asefportaitonline.com, or such other URL's as REP may from time to time use for the offering of this product. During the term of this Sales Associate Agreement or any subsequent renewal of this Agreement, Individual Purchasers referred by the Sales Associate will receive a point-of-purchase discount of \$5.00 per Profile Key when they purchase Profile Keys online using the Sales Associate's ID Code or when they make the purchase through any of the Sales Associate's Tagged Links.

b) **Sales Associate Compensation** on referred Individual Purchases is \$5.00 per Profile Key. This compensation will be paid to the Sales Associate by the 10th day of the month following any month in which the aggregate compensation due and payable to the Sales Associate equals or exceeds \$25.

4) **Referral ID Code and Tagged Links.** REP will create an account for the Sales Associate and provide you with both an identification code for non-hyperlinked sales ("ID Code") and specially tagged URL hyperlinks ("Tagged Links"). REP will provide the ID Code and Tagged Links to Sales Associate for approved marketing uses. You the Sales Associate are solely responsible for proper use of the ID Code and Tagged Links in your marketing materials, including proper instruction of the Client in the use of the ID Code and proper technical implementation of the Tagged Links in their websites or email. You are solely responsible for the correct technical implementation of the Tagged Link format. You will only earn referral fees from REP for sales that either refer to your ID Code or occur through your Tagged Links. REP will not be liable to you for failure by you to properly instruct your Clients on the use of your ID Code or to properly use Tagged Links, even if such failure results in the reduction of referral fees otherwise due to you.