

Reseller Agreement

1. Operative part

Synergy Eight Pty Ltd ACN 116 347 909 (**Synergy 8**) operates the Synergy 8 Website Management System (**Program**) under licence from Synergy Platform Pty Ltd ACN 116 347 909 (**Synergy Platform**). Synergy 8 is prepared to grant Resellers the right to resell access to the Program to End Users on the Terms and Conditions of this Resellers Agreement.

The Reseller makes this offer to Synergy 8 to resell the Program in exchange for the Referral Fees described herein. **Synergy 8** and the **Reseller** are referred to as a Party or the Parties to this Agreement the case may be.

1.1 Defined terms

Agreement means the terms and conditions contained in this Resellers Agreement.

Confidential Information means all information, know how, trade secrets, expressions, ideas, concepts, technical and financial information and other commercially valuable or sensitive information in whatever form disclosed by a Party to the other Party, and in the case of Reseller includes all information in or relating to the Program , Documentation, Licensed IP, sales volumes, Referral Fees paid, except information which lawfully is or comes into the public domain, which is lawfully in a Party's possession prior to disclosure under this Agreement.

Documentation means any user operating manual, explanatory notes or memoranda that may or may not be supplied with the Program provided by Synergy 8 as updated from time to time on Synergy 8's Website or provided during training.

End User means a customer of Synergy 8 that has been introduced by the Reseller.

EULHA means the End User License and Hosting Agreement which all End Users of the Program agree to be bound by available at:<http://www.synergy8.com/legal/eula/>

Force Majeure means an act of God, fire, lightning, explosions, flood or other natural disaster, subsidence, act of terrorism, insurrection, civil disorder or military operations, power or gas shortage, government or quasi-government restraint, expropriation, prohibition, intervention, direction or embargo, inability or delay in obtaining

governmental or quasi-governmental approvals, consents, permits, licences or authorities, strikes, lock-outs or other industrial disputes of any kind and any other cause, whether similar or not to the foregoing, outside of the affected Party's control.

Intellectual Property means statutory and other proprietary rights in respect of copyright and neighbouring rights, all rights in relation to inventions, patents, registered and unregistered designs, utility models, circuit layouts, know-how and rights to require information to be kept confidential, and all other rights arising from intellectual activity and rights to apply for the above, but does not include Moral Rights that are not transferable.

Program means Synergy 8 website management system used as a software solution to enable users to edit, promote and host websites.

Services mean any services which may be provided by the Reseller in conjunction with the Program.

Referral Fee means the amount of money to be paid to the Reseller within fourteen (14) days after the Reseller requests a payment through the Reseller Control Panel based on the amount of End Users introduced and the amount paid by End Users.

Reseller Control Panel means a section of Synergy 8's website which is designed for use by Resellers to monitor various details in regard to the End Users they have introduced and to monitor and make claims for Referral Fees.

Technical Information means Confidential Information being artwork, specifications, designs, research and development results, test results, and other technical information relating to the Program, or the and any material form in which the above materials or information are contained or embodied, or from which they can be reproduced.

Term means the period of five (5) years.

1.2 Interpretation

Reference to:

(a) one gender includes the others;

(b) the singular includes the plural and the plural includes the singular;

- (c) a person includes a body corporate;
- (d) a Party includes the Party's executors, administrators, successors and permitted assigns;
- (e) to an amount of money, to \$, \$A or dollar is a reference to the currency of Australia;
- (f) a statute, regulation or provision of a statute or regulation (a Statutory Provision) includes:
 - (i) that Statutory Provision as amended or re-enacted from time to time; and
 - (ii) a statute, regulation or provision enacted in replacement of that Statutory Provision.
- (a) including and similar expressions are not words of limitation.
- (g) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (h) headings are for convenience only and do not form part of this Agreement or affect its interpretation.
- (i) a provision of this Agreement must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of this Agreement or the inclusion of the provision in it.

2. Appointment of Reseller

2.1 Appointment

- (a) In signing this Agreement, communicating your acceptance, or clicking the "I Accept" button, the Reseller is making an offer to Synergy 8 to resell the Program on the terms and conditions contained in this Agreement.
- (b) Synergy 8 accepts the offer contained in this Agreement by communicating its acceptance of the Resellers offer to the Reseller.
- (c) Synergy 8 appoints the Reseller and the Reseller agrees to act as a reseller of Synergy 8's Program.

2.2 Grant of rights

- (a) The Reseller agrees to promote, market and sell the Program to potential End Users on the terms and conditions contained herein.
- (b) The Reseller acknowledges that its appointment under this Agreement is not exclusive and that Synergy 8 may appoint other resellers to sell the Program.
- (c) The Reseller has a limited right to:
 - (i) introduce End Users of the Program to Synergy 8;
 - (ii) customise and configure the Program supplied by Synergy 8 for End Users;
 - (iii) in exchange for receiving the Referral Fees earned because of the introduction as contained in clause 11.

2.3 Separate contract

- (a) Each order for the Program made by the Reseller on behalf of an End User constitutes a separate agreement between Synergy 8 and the End User.
- (b) Synergy 8 may choose at its sole discretion not to accept an End User introduced by a Reseller for any reason.
- (c) An End User introduced by the Reseller must accept the EULAHA.

3. Financial arrangements

3.1 Pricing

- (a) The Reseller acknowledges that the Program price provided at <http://www.synergy8.com/pricing/> is determined by Synergy 8 and does not include the Reseller's right to charge End Users fees associated with:
 - (i) consulting on the use of the Program;
 - (ii) installing, configuring and customising the Program for an End User;
 - (iii) an element related to promoting, consulting, and the right to install and configure the client.
- (b) The Reseller may contract separately with End Users to provide these services.

3.2 Goods and Services Tax

Referral Fees are exclusive of GST unless the Reseller is registered for GST.

3.3 Recipient created tax invoices

(a) If the Reseller is registered for GST:

(i) Synergy 8 agrees to issue tax invoices to the Reseller and the Reseller has agreed to accept those invoices in respect of Referral Fees in satisfaction of the taxation requirements for recipient created tax invoices.

(ii) the Reseller acknowledges its registration status for GST is current on the day that the Reseller accepts this agreement and that the Reseller will notify Synergy 8 if it ceases to be registered for GST.

(b) If the Reseller is not registered for GST then the recipient created tax invoices will not include GST.

3.4 Expiration of Referral Fees

Unclaimed accrued Referral Fees will expire after a period of two (2) years.

3.5 Minimum payment

The Reseller may request a payment of Referral Fees once the accrued amount reaches \$100.

3.6 Timing and method of payment

The payment for the End Users introduced to Synergy 8 by the Reseller will occur fourteen (14) after the Reseller requests a payment through the Reseller Control Panel. The amount payable will be determined in accordance with the amount of End Users introduced in accordance with clause 12.

4. Reseller's obligations

4.1 Care and skill

The Reseller must market and promote the Program and solicit and obtain End Users for the Program with all due care and skill and in a competent and prudent manner and in compliance with all guides and documents provided by Synergy 8.

4.2 Duty of diligence

The Reseller must:

(a) make it's best endeavours to introduce potential End Users to the Program whilst this Agreement in force;

- (b) diligently, faithfully and conscientiously carry out its obligations under this Agreement;
- (c) at all times preserve and enhance Synergy 8's good reputation;
- (d) use its best endeavours to sell, promote, market and support the Program; and
- (e) not do anything that may interfere with the sale, promotion, marketing and support of the Program.

4.3 Use of Synergy 8's name, logos and trademarks

- (a) The names and logos specified used by Synergy 8 and any logo or characteristic decoration used in relation to them may not be used as part of the business or corporate name or trading style of the Reseller but may be used by the Reseller only in connection with the performance of the Reseller's obligations under this Agreement.
- (b) The Reseller must not disseminate in any manner whatsoever to any person any promotional or marketing documentation (whether in paper or electronic form) which bears any of:
 - (i) the name or logos of Synergy 8
 - (ii) the name of Synergy 8; or
 - (iii) unless Synergy 8 has first been provided with a copy of such proposed promotional or marketing material and has provided its written consent to its dissemination, which will not be unreasonably withheld.

4.4 Promotional assistance

- (a) To assist the Reseller in the performance of its obligations under this Agreement, Synergy 8 may:
 - (i) provide the Reseller with sales literature and other sales aids that Synergy 8 considers necessary; and
 - (ii) list the Resellers of its Program on its website and in other promotional literature including the names and contact details of the Reseller.

4.5 No sub-agents

The Reseller must not appoint sub-agents to carry out any of the functions which it is required or permitted by this Agreement to perform, without the prior written consent of Synergy 8, which may be withheld at Synergy 8's absolute discretion.

4.6 Representations

(a) The Reseller must not:

(i) make any representation or claim or give any warranty or guarantee regarding the Program which has not been authorised by Synergy 8 in writing or which is inconsistent with any Documentation or information provided by or on behalf of Synergy 8, including all warranties and disclaimers contained in such documentation or information;

(ii) without the prior express approval of Synergy 8 commit Synergy 8 in any way to the performance of any contract whatever nor incur any liabilities on behalf of Synergy 8 nor pledge the credit of Synergy 8 nor make any representations nor give any warranty on behalf of Synergy 8, nor will it hold itself out, or permit any person to hold itself out as being authorised to bind Synergy 8 in any way.

4.7 Reseller training

(a) The Reseller must submit to a quality and accreditation process administered by Synergy 8 to ensure that they have achieved competence using and customising the Program for End Users.

(b) At any time during the Term of this Agreement Synergy 8 may require any of the Resellers staff to pass any form of reasonable test to establish that they possess sufficient skills to comply with the obligations contained in this Agreement.

4.8 Invoicing options

For any End Users introduced by the Reseller, the Reseller may elect to:

(a) have Synergy 8 invoice the End User directly, with the Referral Fees accruing in the Reseller's Control Panel; or

(b) at Synergy 8's sole discretion, the Reseller may invoice End Users directly, with Referral Fees deducted from the software licence fee.

(c) if the Reseller invoices End User directly, End Users must contract directly with Synergy 8 and the Reseller is not the agent of Synergy 8.

5. Synergy 8's obligations

5.1 Promotional assistance

(a) Synergy 8 will provide to the Reseller such information and documentation regarding the nature, characteristics, operation and use of the Program as Synergy 8 considers necessary to enable the Reseller to promote and market the Program.

(b) Synergy 8 will provide reasonable technical support for the Program to the Reseller and or to End User.

5.2 Synergy 8's exclusions

(a) Synergy 8 excludes all liability to the Reseller in respect of the suitability of the Program, the quality or performance or the claims of third Parties arising from the commercialisation of the Program.

(b) Without limiting the generality of the foregoing, Synergy 8 is to have no liability to the Reseller, however arising and under any cause of action or theory of liability, in respect of special, indirect or consequential damages, loss of profit or loss of business opportunity, unless this Agreement expressly provides otherwise.

5.3 Non-competition by Synergy 8

Synergy 8 agrees not approach End Users to offer competitive services of the Reseller to any End Users introduced by the Reseller whilst this agreement is in force.

6. Warranties and representations

6.1 Mutual warranties

(a) Each Party warrants that as at the Commencement Date:

(i) it has the power and authority to enter into and perform its obligations under this Agreement and that the execution of this Agreement by it has been duly and validly authorised by all necessary corporate action; and

(ii) its obligations under this Agreement are valid and binding and enforceable against it in accordance with their terms.

6.2 Synergy 8 warranties

(a) Synergy 8 warrants that, to the best of its knowledge and belief as at the Commencement Date, it is entitled to grant the right to resell its Program to the Reseller in accordance with the terms of this Agreement.

(b) Synergy 8 has permission to use all registered or common law trade marks and produce names as specified throughout this Agreement and any End User Licence Agreement.

6.3 Reseller warranties

The Reseller warrants that to the best of its knowledge and belief that:

(a) it has the resources, skills, knowledge and abilities necessary to perform its obligations under this Agreement; and

(b) it will at all times comply with all applicable laws and regulations and hold all necessary approvals in performing its obligations under this Agreement and in any of its dealings with respect to the Program.

7. Restraint and non-competition

7.1 Definitions for this clause

Engage In means to carry on, participate in, provide competitive services, or otherwise be directly or indirectly involved as a Reseller, unit holder, director, consultant, adviser, contractor, shareholder, agent, manager, employee, beneficiary, partner, Associate, trustee or financier.

Business means the business of Synergy 8 when this Agreement is terminated.

7.2 Prohibited activities

(a) The Reseller undertakes to Synergy 8 that it will not:

(b) engage in a business or an activity that is:

(i) the same or similar to the Business or any material part of the Business; and

(ii) in competition with the Business or any material part of the Business;

(iii) solicit, canvass, approach or accept an approach from a person who was at any time whilst this Agreement is in force ending on the date when the Reseller stops

being a Reseller, a customer of Synergy 8 with a view to obtaining their custom in a business that is the same or similar to the Business and is in competition with the Business;

(iv) interfere with the relationship between Synergy 8 and its End Users, employees or suppliers;

(v) apply for or maintain any copyright, trademark or Intellectual Property registrations held in the Reseller's name in relation to the Program.

(vi) induce or help to induce an employee of officer or other Resellers of Synergy 8 to cease involvement with Synergy 8.

7.3 Duration of restraint

(a) The Reseller agrees that they will not in any capacity, either directly or indirectly:

(i) whilst this Agreement is in force; and

(ii) for the period of eighteen (18) months after termination;

(b) be involved in any of the prohibited activities as specified in clause 7.2.

7.4 Interpretation

Clauses 7.2 and 7.3 have effect together as if they consisted of separate provisions, each being severable from the other. Each separate provision results from combining each undertaking in clause 7.2, with each period in clause 7.3. If any of those separate provisions is invalid or unenforceable for any reason, the invalidity or unenforceability does not affect the validity or enforceability of any of the other separate provisions or other combinations of the separate provisions of clauses 7.2 and 7.3.

7.5 Exceptions

(a) This clause 7 does not restrict a Reseller from:

(i) holding 5% or less of the Shares of a competitor that is listed on a Stock Exchange;

(ii) holding Shares in Synergy 8; or

(iii) recruiting a person through a recruitment agency (except if the agency targets employees of Synergy 8) or in a response to a public employment advertisement.

7.6 Acknowledgments

(a) The Reseller acknowledges that:

(i) the prohibitions and restrictions in this clause 7 are reasonable in the circumstances and necessary to protect the goodwill of Synergy 8;

(ii) damages are not an adequate remedy if the Reseller breaches this clause 7; and

(iii) Synergy 8 or another Reseller may apply for injunctive relief if:

(iv) the Reseller breaches or threatens to breach this clause 7; or

(v) Synergy 8 or the other Reseller believes the Reseller is likely to breach this clause 7.

8. Termination

8.1 Termination by End User

(a) If at any time, the End User is dissatisfied with the service provided by the Reseller, because the Reseller's conduct is deemed to be offensive or unprofessional for any reason (as solely determined by the End User), then by providing notice to Synergy 8, the End User may elect to continue using the Program without the assistance of the Reseller.

(b) Synergy 8 will provide a notice on its website to allow End Users to report Resellers that are not representing Synergy 8 in a professional manner, the completion of which gives effect to this clause.

(c) If the End User terminates with the Reseller according to this clause, then:

(i) the End User will continue directly with Synergy 8; and

(ii) the Reseller's administrative access to the Program for the terminated End User will be revoked;

(d) the Reseller's Commission for the terminated End User will cease immediately.

8.2 Termination by Synergy 8

(a) Synergy 8 may terminate this Agreement with immediate effect by giving written notice to the Reseller at any time if Synergy 8 loses its rights to provide the Program.

(b) The Parties agree that should Synergy 8 lose its right to provide the Program then the terms and conditions contained in this Agreement are terminated and each Party will have no recourse to the other.

(c) Synergy 8, may at its sole discretion terminate this Agreement for cause, if:

(i) it has received complaint from at least 10% of End Users in accordance with the clause 8.1;

(ii) the Reseller fails to provide a reasonable level of support of the Program to the End User, after first being provided with notice that its level of support is insufficient;

(iii) the Reseller fails to achieve a reasonable standard of skill in using the System after having received training;

(iv) the Reseller harasses or otherwise interferes with the contract between Synergy 8 and the End User;

(v) the Reseller encourages at least 10% of End Users to move to another System; and

(vi) the Reseller engages in any conduct which casts Synergy 8's good name into disrepute.

(vii) the Reseller is unable to be contacted or appears to have abandoned its business after Synergy 8 has made reasonable attempts to contact the Reseller;

(viii) the Reseller is the subject of an insolvency event or becomes personally bankrupt.

8.3 Termination by the Reseller

The Reseller may terminate this Agreement by providing ninety (90) days notice to Synergy 8.

8.4 Termination notice period

Synergy 8 may terminate this Agreement with immediate effect or by giving ninety (90) days written notice to the Reseller.

8.5 Force Majeure

(a) If the performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by reason of Force Majeure, the affected Party, upon giving prompt notice to the other Party, is excused from such performance to the extent of such prevention, restriction, or interference.

(b) The affected Party must use its best efforts to avoid or remove the Force Majeure or to limit the impact of the event on its performance and must continue performance with the utmost dispatch when the Force Majeure is removed.

(c) If an event of Force Majeure has the effect of substantially preventing performance of this Agreement by a Party for a period of more than ninety (90) days, the unaffected Party may by notice to the other Party terminate this Agreement.

8.6 Effect of termination

(a) Upon termination or expiry of this Agreement for any reason, the Reseller must:

(i) immediately cease offering Synergy 8's Program to End Users;

(ii) immediately discontinue the display or use any of Synergy 8's name or logos;

(iii) or any name, logo or decoration bearing any resemblance to them which may be likely to cause confusion or to mislead any person.

(b) The Reseller acknowledges that its Referral Fees will cease after ninety (90) days if for any reason this Agreement is terminated.

9. Confidential Information

9.1 Permitted use

The Reseller may use the Confidential Information in or relating to the Program solely for the purpose of marketing and promoting the Program and soliciting and obtaining sales in accordance with this Agreement.

9.2 Use of Confidential Information

Subject to clause 9.1, each Party undertakes to keep the Confidential Information of the other Party confidential at all times, not to use or disclose that Confidential Information except to the extent necessary for the purpose of this Agreement or as required by law, and to take all action reasonably necessary to maintain the confidential nature of that Confidential Information.

10. Injunctive relief

(a) In the event that any of the terms contained in this Agreement are breached by the Reseller, the Parties acknowledge that irreparable damage will result to the Company, and to its business and that damages may not be an adequate remedy.

(b) The Parties agree that the Company will be entitled to injunctive relief should the Reseller breach any of the terms and conditions of a clause which references this clause 10, which include provisions relating to Confidential Information and property of the Company.

(c) This equitable remedy shall be in addition to (and will not supersede) any action for damages the Company may have for breach of any part of this Agreement.

(d) Should Synergy 8 be the prevailing Party in any action, at law or equity, to enforce the terms of this Agreement, it will be entitled to legal fees and costs incurred enforcing its rights on an indemnity basis.

11. General provisions

11.1 Assignment

Synergy 8 may assign its rights and obligations contained in this Agreement to a third party at any time without notice or permission of the Reseller. The rights of the Reseller cannot be assigned without the permission of Synergy 8.

11.2 Amendment

This Agreement may only be amended by agreement of the Parties evidenced in writing.

11.3 Entire Agreement

This Agreement contains the entire Agreement of the Parties with respect to its subject matter.

11.4 Further assurances

Each Party agrees, at its own expense, on the request of another Party, to do everything reasonably necessary to give effect to this Agreement and the transactions contemplated by it, including, but not limited to, the execution of documents.

11.5 Form of notice

A notice, approval, consent or other communication in connection with this Agreement must be in writing sent to the address of the receiving Party appearing in this Agreement or such other address as may be communicated by the receiving Party, marked for the attention of any person nominated for that purpose by the receiving Party (and who in the absence of any such nomination is the signatory to this Agreement on behalf of the Party), and may be sent by prepaid post (air mail if international), courier, facsimile transmission or electronic mail.

11.6 Governing law

The laws of Queensland and Australia govern this Deed. The Parties submit to the non-exclusive jurisdiction of the Supreme Court of Queensland and the Federal Court of Australia.

12. Referral Fee structure

12.1 Fees payable to the Reseller

The Reseller Commission will be calculated based on the following:

Number of End Users (Introduced & Supported)	Referral Fee Amount (net of GST)
3 - 4	10%
5 - 9	20%
10 - 49	25%
Over 50	30%

Reseller Fees are only payable on licence fees invoiced to and paid by End Users.

Reseller Fees exclude excess usage fees for overages beyond the limits of the package selected by the End User. These include but are not limited to excessive: storage, bandwidth, e-mail marketing sends, and SMS sends.