

## AFFILIATE MARKETING AGREEMENT

**THIS AFFILIATE MARKETING AGREEMENT** ("Agreement") is entered into by and between R Value, Inc. dba Indow Windows, a Delaware Corporation with principal offices located at 2267 N. Interstate Ave, Portland, OR 97227("Indow Windows") and you ("Affiliate" or "you" or "your").

BY CLICKING "I AGREE" YOU AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ALL DOCUMENTS, POLICIES AND PROCEDURES INCORPORATED HEREIN BY REFERENCE.

### **1. PRODUCTS.**

#### **A. The Business.**

Indow Windows is a manufacturer of interior thermal inserts that insulate windows and block noise. Indow Windows are sold via authorized dealers ("Dealer" or "Dealers") to homeowners and commercial customers. Indow Windows has instituted a program whereby third parties ("Affiliates") can act on behalf of the Dealer to generate retail sales leads ("Leads") for the Dealer ("Affiliate Program").

#### **B. Affiliate Participation.**

Once accepted into the Affiliate Program by Indow Windows, you will have the right to create Leads for the Dealer who solicited your participation in the program. You will not redirect any prospective purchaser to any website other than that of Indow Windows. You will not interfere with the operation of the Affiliate Program by taking any actions that circumvent the policies and procedures governing the Affiliate Program.

### **2. ACCEPTANCE, EFFECTIVE DATE AND AMENDMENT.**

#### **A. Effective Date.**

This Agreement becomes effective when you click "I Agree" ("Effective Date"). The operating regulations of Indow Windows ("Operating Regulations"), the information gathered by Indow Windows from you in the online Affiliate registration process (Affiliate Registration Form and such other documents, policies and procedures Indow Windows requires Affiliates to conform to, are all incorporated into and become a part of the Agreement by this reference).

#### **B. Affiliate Accounts.**

After you agree to be bound by this Agreement and complete the Affiliate Registration Form, Indow Windows will establish an account for you ("Account"). This Agreement shall be binding upon you and govern the Account.

#### **C. Link to Indow Windows.**

Once Indow Windows notifies you that you have been accepted into the Affiliate Program, Indow Windows will grant you a revocable, non-exclusive, royalty-free license

for the term of this Agreement, to access the Indow Windows website solely for the purpose of allowing you to generate Leads through a link to the Indow Windows website.

### **3. CONDITIONS.**

#### **A. Force Majeure.**

Indow Windows assumes no liability for disruptions in service or improper operation of its equipment or software for any reason, including, without limitation, vandalism, theft, phone service outages, Internet disruptions, human error, extreme or severe weather conditions or any other causes commonly referred to as "Acts of God."

#### **B. Restrictions Upon Offering Warranties.**

You agree you will not provide, offer, or advertise any guarantee or other warranty not offered by Indow Windows.

#### **C. Access to Customer Information.**

You acknowledge that by participating in the Affiliate Program and providing Leads, Indow Windows may receive information from or about those leads. Your participation in the Affiliate Program constitutes your specific and unconditional consent to and authorization for Indow Windows to access, receive, store, use and disclose any and all such information, consistent with the policies and procedures set forth in the Indow Windows Privacy Policy.

### **4. AFFILIATE'S WARRANTIES AND REPRESENTATIONS.**

You make the following representations and warrant that at all times during the term of this Agreement such representations shall be true and accurate:

#### **A. Lead Consent**

You warrant that all Leads provided thru this program have consented to be contacted by Indow Windows or one of its authorized Dealers via any form of contact you provide thru the Affiliate Program.

#### **B. Contractual Capacity.**

You have the power and authority to carry on your business as it is conducted, are duly authorized to enter into this Agreement and that no other authorizations, consents or approvals are required in connection with the validity and enforceability of this Agreement or the execution, delivery and performance of this Agreement by you.

#### **C. Truthful Information.**

All information and data you provide to Indow Windows, or for which you engage a third party to provide to Indow Windows is complete, truthful, accurate, valid, your lawful property, and you have the right to communicate such information.

**D. Verification.**

All email, domain, URL, physical address and telephone information you provide is complete and correct.

**E. Compliance with Laws and Regulations.**

You are in compliance with all applicable national, federal, state, and local laws, rules, regulations, requirements and/or other standards established by any governmental authority having jurisdiction to control such activities, including, without limitation, the Federal Trade Commission, and State and local consumer protection agencies.

**5. FEES, SUCCESS FEES AND PAYMENTS.**

**A. Waiver of Account Establishment Fee.**

Indow Windows shall not charge you an "Account Establishment Fee," to establish the Account described in Section 2.B. This exemption is effective only for your activities under the Affiliate Program and the terms of this Agreement.

**B. Success Fees.**

Indow Windows will pay you a success fee equal to 5% of the manufacturers suggested retail price (MSRP) of Indow Windows product sales, on or before the 20th of the month following the calendar quarter in which payment for the sale is received by Indow Windows. Notwithstanding the terms of Section 9.D., success fees payable of less than \$50 will be deferred and paid when cumulative unpaid success fees exceed \$50. In the event there is a chargeback or refund related to the sale, you will not be entitled to the success fee and you shall repay Indow Windows for any success fees you previously received for which the funds for the sale are refunded or charged back.

**6. TERM.**

This Agreement shall remain in effect from the Effective Date until:

- Indow Windows or you issues a "Notice of Cancellation" as set forth in Section 9.C of this Agreement or
- The Agreement is terminated as otherwise provided in Section 9.

**7. DISCLAIMER OF WARRANTIES.**

**YOU UNDERSTAND AND AGREE THAT INDOW WINDOWS IS PROVIDING ITS SERVICES TO YOU "AS IS" AND THAT INDOW WINDOWS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED. THIS EXCLUSION APPLIES, WITHOUT LIMITATION, TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND**

**FITNESS FOR A PARTICULAR PURPOSE AND THE WARRANTY OF NON-INFRINGEMENT.**

**8. LIMITATION OF LIABILITY.**

INDOW WINDOWS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

IN NO EVENT SHALL YOU BE ENTITLED TO RECOVER DAMAGES FROM INDOW WINDOWS THAT EXCEED THE SUM OF FEES PAID TO YOU BY INDOW WINDOWS UNDER THIS AGREEMENT DURING THE SIX MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR DAMAGES.

**INDOW WINDOWS ASSUMES NO LIABILITY FOR YOUR FAILURE TO PERFORM IN ACCORDANCE WITH THIS AGREEMENT OR ANY RESULTS CAUSED BY ACTS, OMISSIONS OR NEGLIGENCE BY YOU, A SUBCONTRACTOR OR AN AGENT OF YOURS OR AN EMPLOYEE OF ANY ONE TO THEM, NOR SHALL INDOW WINDOWS HAVE ANY LIABILITY FOR CLAIMS OF THIRD PARTIES, INCLUDING, BUT NOT LIMITED TO, CLAIMS OF THIRD PARTIES ARISING OUT OF OR RESULTING FROM, OR IN CONNECTION WITH, YOUR PRODUCTS, SERVICES, MESSAGES, PROGRAMS, CALLER CONTRACTS, PROMOTIONS, ADVERTISING, INFRINGEMENT OR ANY CLAIM FOR LIBEL OR SLANDER OR FOR VIOLATION OF COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

**9. TERMINATION.**

**A. By Affiliate.**

You may terminate this Agreement or your Account with Indow Windows at any time upon providing a notice of your intent to terminate at least 5 days prior to the desired date of termination.

**B. By Indow Windows.**

Indow Windows may terminate this Agreement or your Account at any time for any reason, or for no reason. Indow Windows may suspend your access to Indow Windows's web site immediately and without notice if you are in breach of any of your obligations hereunder and then terminate this Agreement and your access to Indow Windows's web site, or Indow Windows may terminate this Agreement and your access to Indow Windows's web site immediately and without notice if you are in breach of any of your obligations hereunder. If the termination is at the convenience of Indow Windows, Indow Windows shall provide you with notice 7 days in advance of the date of termination.

**C. Notice of Cancellation**

If a party to the Agreement intends to terminate the Agreement, it must send a notice to the other party of its intent to terminate ("Notice of Cancellation"). The Notice of Cancellation shall contain the date upon which the termination shall become effective and

shall be delivered in accordance with Section 19 of this Agreement. Provided, however, that in the event Indow Windows determines it is necessary to immediately terminate the Agreement, Indow Windows may provide notice to you via telephone, followed by delivery of a Notice of Cancellation as required in Section 18. Such termination shall be effective as of the time of the telephone call to you.

**D. Payments/Obligations to be Completed After Termination.**

In the event Indow Windows is holding funds related to your Account at the termination of the Agreement and it is later determined that such funds should be sent to you, the information you provided to Indow Windows regarding your name and address will be used to try to send you any funds that are being held in custody for you. If that information is not accurate, and Indow Windows is unable to complete the payment of funds to you, the funds will be subject to applicable state laws regarding escheat of unclaimed property.

**E. Survival:**

Upon Termination of this Agreement, the provisions of Sections 7, 8, 9, 10, 11, 12, 13 and 18 shall survive such Termination.

**10. OBLIGATION TO PAY OWN TAXES**

You are responsible for the payment of all taxes applicable to the conduct of your business.

**11. CHOICE OF LAW, JURISDICTION, AND VENUE.**

You agree that the laws of the State of Oregon, without reference to its conflict of law principles, will govern this Agreement, and that any claim or suit arising out of or related to this Agreement must be brought exclusively in the federal and/or state courts located in the State of Oregon, Multnomah County, U.S.A. You consent to the exclusive jurisdiction of such courts.

**12. ENFORCEMENT ACTIVITIES.**

**A. Lawful Use.**

The web site and Services of Indow Windows may be used only for lawful purposes and in a lawful manner. You agree to comply with all applicable laws, statutes, and regulations. You may not register under a false name, mask your true identity or the Products you offer to the public, or use invalid or unauthorized bank account information. You may not impersonate any participant or use another participant's information. Fraudulent conduct may be reported to law enforcement, and Indow Windows will cooperate in any investigation.

**B. Investigation.**

Indow Windows has the right, but not the obligation, to monitor any activity and content associated with its web site. Indow Windows may investigate any reported violation of

its policies or complaints and take any action that it deems appropriate. Such action may include, but is not limited to, issuing warnings, suspension or termination of service, denying access, and/or removal of any materials on the portion of Indow Windows's web site used by you. Indow Windows reserves the right to remove or edit any content that violates this Agreement or is otherwise objectionable.

**C. Disclosure of Information.**

Indow Windows may report any activity that it suspects is a violation of any law or regulation to appropriate law enforcement officials, regulators, or other third parties. In order to cooperate with governmental requests, to protect Indow Windows's systems, you, and Customers, or to ensure the integrity and operation of Indow Windows's business and systems, Indow Windows may access and disclose any information it considers necessary or appropriate, including but not limited to user contact details, IP addressing and traffic information, usage history, and posted content.

**D. Suspension of Account.**

In the event Indow Windows determines that you are in breach of this Agreement, Indow Windows may suspend activity on your Account until you cure the breach of this Agreement, or until Indow Windows terminates this Agreement.

**14. PRIVACY.**

**A. Privacy Policy.**

Indow Windows's [Privacy Policy](#) is posted on Indow Windows's web site and is incorporated herein by reference. Indow Windows reserves the right to change the Privacy Policy from time to time as it deems appropriate. Any changes will become effective when posted to the web site. Continued use of Indow Windows's Services after any change will be deemed acceptance of the new Privacy Policy. You shall have a privacy policy that is no less restrictive than Indow Windows's Privacy Policy and which complies with all applicable laws and regulations.

**B. Commitment to Privacy.**

Unless otherwise authorized by Indow Windows in writing, you agree not to use any information regarding Customers except for the purpose of entering retail customer lead information. You agree not to use Customer information for purposes of solicitation, advertising, unsolicited e-mail or spamming, harassment, invasion of privacy, or conduct which may be otherwise deemed to be objectionable conduct.

**15. COPYRIGHT NOTICE.**

Indow Windows's web site is subject to the protection of the copyright laws of the United States and other countries. No part of Indow Windows's web site may be reproduced without the prior written permission of Indow Windows.

**16. DEFAULT.**

In the event that you fail to perform any duty, obligation, or provision contained in this Agreement ("Default"), you agree to pay to Indow Windows any damages, expenses, and costs, whether directly or indirectly caused, including reasonable attorney's fees incurred by Indow Windows due to your Default.

## **17. AMENDMENTS AND MODIFICATIONS.**

### **A. Indow Windows's Right to Amend or Modify Agreement.**

Indow Windows may amend or modify this Agreement and any such amendment or modification will be binding on you upon receipt of written notice. Continued use of Indow Windows's website after such notice shall be deemed to be an acceptance of all terms in the amended/modified Agreement.

### **B. Other Amendments/Modifications.**

You may communicate any proposed modifications or amendments to this Agreement to Indow Windows at the address provided in Section 19. However, such changes or amendments will only become effective if agreed upon by Indow Windows, in its sole discretion, in writing.

## **18. INDEMNIFICATION.**

### **Affiliate.**

You agree to indemnify and hold Indow Windows, its employees, officers, agents, shareholders and directors harmless from any and all claims, losses, damages, costs, expenses (including attorney's fees), fines, penalties regardless of whether the same are actual, direct, indirect, special, incidental, consequential, or punitive ("Damages") resulting from or in connection with this Agreement or incurred as a result of, or related to, the causes set forth below:

- Your breach of any warranty or representation;
- Your violation of any law, rule, or regulation;
- Intellectual property infringement claims related to the your site or service; or
- Your reckless or willful misconduct;
- Claims of third parties arising out of or resulting from, or in connection with the Products of Supplier you offer for sale, messages, programs, caller contracts, promotions, advertising, infringement or any claim for libel or slander.

### **Indow Windows.**

In no event will Indow Windows be liable to indemnify any party for any Damages arising directly or indirectly from any use of this Internet resource, even if Indow Windows is expressly advised of the possibility of such damages.

## **19. NOTICES.**

A. **Addressed to:**

Indow Windows:

**Mail:**  
Indow Windows  
2267 N. Interstate Ave  
Portland, OR 97227

Affiliate:

**Mail:**  
To the last address you provided to Indow Windows.

**Electronic Communication:**  
To the last email address you provided to Indow Windows.

B. **Method of Delivery and Date of Receipt.**

Any written notice under this Agreement, which shall include email to you by Indow Windows, shall be deemed given and delivered upon the earlier of: (a) actual receipt; or (b) five days after being deposited in the United States mail, postage prepaid, and addressed to the party to whom the notice is being sent as set forth in Section 19.A.; or (c) one (1) business day after being sent by email or other electronic communication by Indow Windows to you at the email address described in Section 19.A.

C. **Notice of New Address.**

Either party may communicate a change in its mailing address by notifying the other party in accordance with Section 19.B., in writing, including an electronic communication by Indow Windows to you, which sets forth the old mailing address and provides the new mailing address.

**20. HEADINGS.**

The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

**21. SEVERABILITY OF PROVISIONS.**

Each provision of this Agreement shall be considered severable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of this Agreement which are valid.

**22. INTELLECTUAL PROPERTY**

Except for the rights expressly granted herein, this Agreement does not transfer any intellectual property or technology of Indow Windows to you and all rights, title and interest in such intellectual property and technology, whether developed, licensed or



owned by Indow Windows shall remain with Indow Windows. You agree that you will not, directly or indirectly, reverse engineer, decompile, disassemble, or otherwise attempt to derive source code or other trade secrets of Indow Windows.

**23. GENERAL.**

You agree to be bound by any electronic affirmation, assent or agreement transmitted through Indow Windows's web site. You represent and warrant that you have the authority to agree to this Agreement. You agree that any decision or action to click on an "I agree", "I consent", or other similarly worded "button" or entry field using a mouse, keystroke or other computer device, will indicate your agreement and will be legally binding and enforceable and the legal equivalent of your handwritten Signature.

You acknowledge (a) that you have read and understood this Agreement; (b) that this Agreement has the same force and effect as a signed agreement; and (c) that this Agreement constitutes the entire agreement between Indow Windows and you and governs your participation in the Affiliate Program, superseding any prior agreements between you and Indow Windows pertaining to the Affiliate Program.

The relationship between Indow Windows and you shall be that of independent contractors. Neither party will be considered an agent, employee, joint venture, or partner of the other, unless otherwise specifically provided herein.

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