



LIFEPICS CUSTOMER AGREEMENT

5777 Central Avenue, Suite 120
Boulder, CO 80301

To:

From: PhotoDirect PTY LTD
(Reseller for LifePics, Inc.)

ORDER FORM

SOLUTION	SERVICE	UNIT PRICE	QTY	TOTAL
Retail	Initial Set-up Fee for LifePics Co-Branded Web Pages (Based on number of locations)	NZ \$104	1	NZ\$104
	Monthly License Fee for LifePics Co-Branded Web Pages (Based on initial kiosk or lab connected – Includes Wholesale Network Connectivity (Minimum 12 months)	NZ \$104	1	\$
	Additional Digital Labs Connectivity/month	NZ \$104		
	Additional Kiosk Connectivity/month	NZ \$65		
	Stores in AU/NZ directory/month (all stores must be included)	NZ \$6.50		

All amounts are in AU. dollars.

MONTHLY COMMISSION SCHEDULE

SOLUTION	SERVICE	COMMISSION SPLIT	
		CUSTOMER	LIFEPICS
Retail	Standard Print Orders that Originate from Customer's Site	95%	5%
	Print Orders that Originate from Customers coming through LifePics' Network Partner(s) or from LifePics Advertising Network	82.5%	17.5%
	Templates	90%	10%
	Photo Gifts, Photo Books, Calendars, Folding Cards...	90%	10%
	Dealer add-on products	90%	10%
Custom Software Development	\$150/hour		

SIGNATURES

This **Customer Agreement** including all of the terms and conditions attached to this cover page and the three page Order Form (collectively, the "Agreement") is entered into as of the date that LifePics signs the Agreement (the "Effective Date") by and between Customer and LifePics and governs the provision of all services and software by LifePics to Customer as set forth herein. By signing below, the parties, by their authorized representatives, have entered into this Agreement as of the Effective Date.

<p>LIFEPICS, INC.</p> <p>Signed: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>	<p>CUSTOMER: _____</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> <p>By signing above I represent that I am an authorized representative of Customer, I have reviewed and agreed to all of the terms and conditions in this Agreement including the attached Terms and Conditions of Service and I authorize LifePics to automatically charge the credit card listed below for the amounts displayed above pursuant to this Agreement.</p>
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Boulder, CO 80301

CUSTOMER INFORMATION

Company Information:

Company Legal Name: _____
Primary Contact Name: _____
Address / City / State / Zip: _____
Phone #: _____
Fax #: _____
Web Site (URL): _____
E-Mail: _____
Tech Support Contact: _____
Affiliation: _____
Co-Branded Pages URL desired by Customer: http://_____.lifepics.com (please insert preferred name)

Please describe your business in 50 words or less (location, hardware sold, services offered, unique differentiators, etc ..)

Business Locations:

Business Location 1:
Location Name: _____
Address / City / State / Zip: _____
Digital Lab Equipment: _____

Business Location 2:
Location Name: _____
Address / City / State / Zip: _____
Digital Lab Equipment: _____

Attach a separate sheet for additional business locations.

Billing Information:

Billing Contact (if different): _____
Phone #: _____
E-Mail: _____
Credit Card Type (Visa / MC / Amex): _____

LIFEPICS WILL CONTACT YOU FOR THIS NUMBER. PLEASE COMPLETE ALL OTHER FIELDS

Exp. Date: ____ / ____
Signature Code (3 or 4 digit code on back of credit card): _____
Name on Credit Card: _____
Address on Credit Card / City / State / Zip: _____

LIFEPICS CUSTOMER AGREEMENT TERMS AND CONDITIONS OF SERVICE

1. DEFINITIONS.

1.1. "Co-Branded Web Pages" means the user interface, functionality and Content made available on the World Wide Web used to provide online imaging services for Customer pursuant to this Agreement.

1.2. "Content" means Customer names, trademarks, logos, banners, graphic design elements, link graphics and any other text, pictures, sound, video, graphics and other data supplied by Customer to LifePics pursuant to Section 1.16, as such materials may be modified from time to time.

1.3. "Customer Site" means the internet web site located at the address set forth on the Customer Information Sheet or other web site or IP address designated by Customer.

1.4. "Dealer" or "Customer" means a retail photofinisher Customer that owns and operates a retail photo lab(s).

1.5. "Gross Revenues" means all revenues derived from the provision of online imaging services to Users before any applied discounts or credit card fees are deducted, excluding canceled orders, test orders, shipping, and handling fees online.

1.6. "Intellectual Property Rights" means present or future inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

1.7. "LifePics Site" means the internet web site located at <http://www.lifepics.com> or other web site or IP address designated by LifePics.

1.8. "LifePics Technology" means all present and future proprietary technology of LifePics (including all software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by LifePics or used by LifePics in providing the Services.

1.9. "Live" means the date that the online photo services web site is officially turned on to start receiving orders.

1.10. "Network Partner" means a third party vendor who has contracted with LifePics to send orders to Dealers.

1.11. "LifePics Advertising Network" means advertisements run by LifePics on behalf of the retailer.

1.12. "Order Form" means the form evidencing the initial subscription for the Service agreed to by the parties and any other subsequent order form submitted online or by fax or in written form, specifying, among other things, the services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such

Order Form to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement will govern).

1.13. "Services" means the online imaging services made available on the World Wide Web provided to Customer by LifePics through access to the Software, the LifePics Technology, via the LifePics Site and Co-Branded Pages pursuant to this Agreement including without limitation, the web site development, hosting, operation and application services described in this Agreement and any other ancillary services rendered to Customer by LifePics pursuant to this Agreement.

1.14. "Software" means LifePics' proprietary software developed, operated, and maintained by LifePics to provide the Services.

1.15. "User" means any person who accesses the Co-Branded Web Pages.

1.16. "User Agreement" means the User agreement available on the Co-Branded Web Pages and the LifePics Site, as modified by LifePics from time to time, entered into between LifePics and User that will govern the provision of online imaging services from the Co-Branded Pages or the LifePics Site.

1.17. "User Data" means all data, information or material collected by LifePics in connection with the Co-Branded Web Pages and the Services, including, without limitation, names, email addresses and other contact information.

2. CO-BRANDED WEB PAGES.

2.1. Development and Operation. Within thirty (30) days after the Effective Date, Customer will deliver to LifePics all Content to be incorporated into the Co-Branded Web Pages in the formats specified by LifePics. LifePics will make available or deliver to Customer all Software necessary or required by LifePics for the Services. LifePics will develop, set-up, host and maintain the Co-Branded Web Pages in accordance with its standard specifications and using the Content provided by Customer. Customer agrees that LifePics may place on every page of the Co-Branded Web Pages the attribution "Powered by LifePics," a LifePics logo or other attribution within the user interface that will link to the LifePics Site.

2.2. Linking. Customer will maintain at least one or more Links to the Co-Branded Web Pages from Customer Site with at least one dominant Link on the Customer Site homepage. Customer may display the Links to the Co-Branded Web Pages from various locations on the Customer Site. Any of these Links may contain the "Powered by LifePics" logo or other attribution provided by LifePics that will link to the LifePics Co-branded online Site. Customer will direct all Customer Site users who desire to purchase online imaging services directly and exclusively to the Co-Branded Web Pages or the LifePics Site and will not offer or sell any online imaging services except through the Co-Branded Web Pages or the LifePics Site without LifePics' stated approval.

2.3. Launch. LifePics will use commercially reasonable efforts to develop, set-up and launch the Co-Branded Web Pages within thirty (30) days after receiving from Customer the Set-Up Fees (defined below) and all necessary Content. The Co-Branded Web Pages will be considered launched and "Live" once LifePics has completed development of the Co-Branded Pages, provided training materials and access to the Software, and listed Customer in the LifePics Customer directory ("Set-Up"). The "Live Date" will be 12:01 a.m. Mountain Time on the day that Set-Up is complete and LifePics determines that the Co-Branded Web Pages are "Live." LifePics will start charging its commissions after the site has been turned Live, however, Dealer agrees that they are responsible to pay for any and all orders placed on the site and submitted for fulfillment to any wholesaler, even when the site is still on test mode. Orders placed and fulfilled while in test mode will only get billed the Cost of Goods Sold (COGS) without commissions from LifePics unless arrangements with wholesaler have been made and COGS costs are waived as test orders by wholesaler. Should the Customer not be ready to launch its services after 90 days of the executed agreement date, LifePics will charge its commission fees retroactive to the execution date of the Agreement.

2.4. Operating Responsibilities. LifePics will use commercially reasonable efforts to host, operate and maintain the Co-Branded Web Pages and ensure that the Co-Branded Web Pages are continuously available to Users. Customer will use commercially reasonable efforts to host, operate and maintain the Customer Site and ensure that the Customer Site and the Links to the Co-Branded Web Pages are continuously available to Users. As part of building Co-Branded Pages, LifePics will post and/or make available on the Co-Branded Pages an agreement that the User will be required to agree to and comply with in order to use the online imaging services.

2.5. User Agreement. Before obtaining online imaging services from the Co-Branded Pages or the LifePics Site, Users will be required to agree to the User Agreement. Customer will cooperate with LifePics in enforcing each User Agreement as necessary upon LifePics reasonable request. Customer will immediately notify LifePics if Customer becomes aware of any breach of any User Agreement. Upon termination of a particular User Agreement in accordance with its terms, User's right to obtain online imaging services from the Co-Branded Web Pages or the LifePics Site will cease.

2.6. Changes. Any changes to the Co-Branded Web Pages requested by Customer may be subject to additional fees at LifePics then current rates. LifePics will not, without prior written authorization from Customer, alter, modify or change in any way the Content provided by Customer. LifePics will use reasonable commercial efforts to use all Content in compliance with any instructions provided by Customer. However, LifePics reserves the right to make any modifications to the Co-Branded Pages (other than to Content) after the initial design or to refuse to include any design or elements that interfere with the operation or purpose of the Co-Branded Pages or the online imaging services.

2.7. Archiving. LifePics will use reasonable commercial efforts to provide and maintain the equipment necessary to provide a reliable archive for images. This equipment may include, but is not required to be, any of the following: server(s), hard drive(s), tape or optical backup systems. LifePics may change for archiving at its discretion. LifePics will use reasonable efforts to notify Customer of any planned changes to the LifePics network or facilities that may negatively affect the availability of the Services.

2.8. Customer Responsibilities. Customer agrees to install the Software necessary or required by LifePics for the Services. All third party software necessary or required by LifePics for operation of the Customer Site is the responsibility of Customer. LifePics will notify Customer of the need for such software. Customer agrees to purchase and license such software as needed. Other software (not necessary for operation of the LifePics website) will be owned and licensed by Customer.

3. SUPPORT.

3.1. Training. LifePics will provide training for Customer during the term of this Agreement. Such training will consist of phone and web-based training on the administrative functionality of the online imaging services, as well as on the marketing and promotional features and benefits of the Co-Branded Web Pages and the Customer Site. LifePics will provide Customer with information about the minimum system requirements (i.e., hardware, software, and network requirements). If Customer fails to meet these minimum requirements, LifePics may decline to support Customer. The LifePics technical support team may require the installation of remote control access to the Software in the performance of its installation and support obligations. Such remote control software will be at no charge to Customer and Customer agrees to install the Software as may be required by LifePics for the operation of the online imaging services.

3.2. User Support. LifePics will use reasonable commercial efforts to provide technical support to Users by email. Users will be required to send their questions, comments or requests electronically to LifePics as instructed by LifePics and LifePics will use reasonable efforts to respond in a timely manner.

3.3. Customer Support. LifePics will also provide technical support to Customer by email and telephone. Telephone support will be provided Monday through Friday 9:00 a.m. to 5:00 p.m. Mountain Time, excluding U.S. national holidays. Limited evening and weekend support will be provided via pager. The first point of contact for Customer in reporting technical problems or with support questions relating to the Services will be LifePics' support contacts.

4. CHARGES AND PAYMENT OF FEES.

4.1. Charges. Customer or its guarantor will pay LifePics all applicable fees for all Services provided by LifePics under this Agreement pursuant to the Order Form and the Commission Schedule. For International Customers, the average monthly rate of exchange charged by LifePics is based on the daily noon buying rates for cable transfers in the New York City Certified for Customs Purposes by the Federal Reserve Bank of New York. The latest rate will be

collected from the following web site:
<http://www.federalreserve.gov/Releases/G5/>

4.2. LifePics Gateway Payment Processing. If LifePics is integrated with a secure credit card processing gateway via PayPal and any integration to the existing LifePics configured gateway is included in the LifePics set-up services. The following fees will apply regardless of the kind of credit card used: Transaction rate: 2.5% plus \$.33/transaction.

Should Customer choose to also offer pay-at-store services, Customer will be responsible for all payment collection in store of all online generated orders. Settlement will occur monthly by the 10th of the following month. All tax amounts collected will be forwarded to Customer along with the appropriate reporting which will allow Customer to remit the appropriate payment of taxes to respective jurisdictions. Customer is responsible for all timely tax payments to federal, state, and local tax authorities.

For consumer refunds, Customers must fill-out a LifePics authorized refund form and submit to support@lifepics.com for credit amount processing. If LifePics collected the funds for a given order, LifePics will remit the applicable refund amount back to the end consumer.

LifePics will not charge commissions on the following types of refunds:

- Production delay, quality issue, or lost in mail when fulfilled by wholesaler
- Order took a long time for LifePics to package up (>15 minutes for a print order, > 45 minutes for a creative products order)
- Customer ordered incorrect quantity or product
- Cancelled due to copyright violation
- Customer received additional discount in-store

LifePics will charge commissions on the following types of refunds:

- Production delay, quality issue, or lost in mail when fulfilled by in-house lab
- Order lost at store
- Low resolution original image
- Poor manual crop by the customer
- Routing issue

See "A-La-Carte Addendum" for additional information on other Payment/OMA Options

4.3. Customer Gateway Payment Processing. If approved by LifePics, Customer will need to establish a merchant account and gateway for the processing of consumer credit cards if the Customer chooses to establish its own automated payment processing service. LifePics is integrated with select credit card processing gateways and integration to existing configured gateways will be charged accordingly (refer to a-la-carte Addendum). Any custom integration to an existing gateway or to a new gateway may

require additional custom integration fees. Should Customer choose to also offer pay-at-store service, Customer will be responsible for all payment collection in store of all online generated orders.

5. Storage Policy. A benefit of the service is the ability to store photos in each user's account. Subject to these terms, as long as a user is an active participant in the Service, LifePics will offer free, unlimited storage, for non-commercial purposes, of their digital photos that are uploaded to their account. Storage terms may change without notice. A condition of storage of photos is the "Active Participation" in the Service. Active Participation is defined as logging-in to a user's account at least once every 6 months with no purchase requirements. If the user's account is inactive for a period of over 6 months, LifePics may remove and discard any Content, including all information, communications, postings, albums, image files or any other content within the Service. LifePics will attempt to contact each user via e-mail to notify them of their account status and of the pending expiration of the images based on inactivity. It is still the user's responsibility to perform the minimum requirements to maintain their active status, regardless of whether such notification ever reaches them or not. LifePics may terminate a user's account for any activity that in the sole opinion of LifePics or Dealer constitutes an abuse of the Membership or a violation of these Terms.

6. LICENSE GRANTS; RESTRICTIONS.

6.1. Content. During the period that LifePics provides the Services to Customer under this Agreement, Customer hereby grants to LifePics a non-exclusive, non-sublicensable, royalty-free, worldwide license to reproduce, distribute, publicly perform, publicly display and digitally perform the Content for the purpose of building and maintaining the Co-Branded Web Pages for Customer pursuant to the terms and conditions of this Agreement. Customer grants no rights other than explicitly granted herein, and LifePics agrees not to exceed the scope of its license.

6.2. Trademarks. Subject to the terms and conditions of this Agreement, each party hereby grants to the other party a limited, non-exclusive, non-sublicensable, royalty-free, worldwide license to use such party's trademarks, service marks, trade names, logos or other commercial or product designations made available by one party to the other party (collectively, "Marks") for the purposes of attribution and for marketing and promoting the Co-Branded Web Pages, online imaging services and the Services. The Mark owner may terminate the foregoing license if, in its sole discretion, the licensee's use of the Marks does not conform to the owner's standards. The Mark licensee will use the Marks exactly in the form provided and in conformance with any trademark usage policies. The licensee will not form any combination marks with the other party's Marks. The licensee will not take any action inconsistent with the owner's ownership of the Marks and any benefits accruing from use of such Marks will automatically vest in the owner.

6.3. Software. LifePics hereby grants User a non-exclusive, non-transferable, worldwide right to access and use the Software subject to the terms and conditions of this Agreement.

6.4. Restrictions. All rights not expressly granted to User are reserved by LifePics and its licensors. User will not (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Software in any way; (b) modify or make derivative works based upon the Software; (c) "frame" or "mirror" the Co-Branded Web Pages on any other server or wireless or Internet-based device; or (d) reverse engineer or access the Software in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions or graphics of the Service, or (iii) copy any ideas, features, functions or graphics of the Service.

7. OWNERSHIP.

7.1. Customer Property. As between the parties, Customer (and its licensors, where applicable) owns all right, title and interest, including all related Intellectual Property Rights, in and to the Content, Customers' Marks and the Customer Site. This Agreement does not convey to LifePics any rights of ownership in or related to the Content or Customer's Marks, or any Intellectual Property Rights in the foregoing owned by Customer, and, except as expressly provided in this Agreement, no right or license is granted to LifePics.

7.2. LifePics Property. As between the parties, LifePics (and its licensors, where applicable) owns all right, title and interest, including all related Intellectual Property Rights, in and to LifePics' Marks, the LifePics Site, the Co-Branded Web Pages and any LifePics Technology, including, without limitation, the Software and the Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Services, but excluding the Content and Customer's Marks. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the LifePics Technology, the LifePics Marks or any Intellectual Property Rights in the foregoing owned by LifePics and, except as expressly provided in this Agreement, no right or license is granted to Customer.

7.3. User Data.

(a) All User Data collected by LifePics during its operation of the Co-Branded Web Pages will be jointly owned by LifePics and Customer and may be used by LifePics and Customer for any lawful purpose, provided that neither Party will disclose or use any User Data in violation of the privacy policy included with the Co-Branded Web Pages, any applicable privacy laws, or any other applicable law or regulation. Neither party will have a duty to account to the other party for use of any User Data. LifePics may suspend Customer's access to User Data and/or terminate this Agreement for breach, if LifePics reasonably believes that Customer is using User Data in violation of this Agreement or in a way that could create potential liability to LifePics and/or Customer.

(b) Exceptions. Data that is derived, provided, or obtained independently from the User Data under this Agreement, including without limitation names, email addresses, and contact information of LifePics Site users ("Independent Data"), will not be deemed proprietary or

confidential information of Customer. Independent Data of users may be derived, provided, or obtained from other entities, including direct competitors of Customers. Accordingly, LifePics may use the Independent Data to target and/or solicit such persons.

(c) Privacy. LifePics and Customer will each adhere to all privacy and data protection laws applicable to the gathering, processing, storing and transmitting of User Data.

7.4. Open Online Imaging Network. Customer acknowledges that by entering into this Agreement and utilizing the Services, Customer is participating in an "open network" in which Users, and other users of the LifePics Site or other Customer sites (collectively, "Users") have the freedom to choose to do business with any Customer in LifePics online imaging network at any time for any reason. Users own all their own images and may print them at a given Customer or move them to a given Customer at any time regardless of where such Users may have previously uploaded or printed their images. Furthermore, Customer acknowledges that Users may access their images from other co-branded web pages of any of the Customers in LifePics online imaging network, however no direct links or references to any other Customer Site will be exposed on Customer's Co-Branded Site.

8. SUSPENSION AND RECONNECTION. In addition to any other rights of LifePics in this Agreement, LifePics may suspend this Agreement, the Services, and/or access to the Co-Branded Web Pages if Customer's account becomes delinquent (falls into arrears). Customer will maintain financial responsibility during the Term. LifePics may continue to charge Customer the monthly license fee and any applicable monthly service charges during any period of suspension. LifePics reserves the right to impose a reconnection fee in the event the Services are suspended and thereafter Customer requests reinstatement of the Services.

9. TERM AND TERMINATION.

9.1. Term. The initial term of this Agreement begins on the Effective Date and will continue until the last day of the month after expiration the twelve (12) month period beginning after the Live Date ("Initial Term") or unless stated otherwise under Order Form. Upon the expiration of the Initial Term, this Agreement will automatically renew on a month-to-month basis (each, a "Renewal Term") beginning on the first day of the calendar month unless either party provides the other party with notice of its intent to terminate this Agreement at least sixty (60) days prior to the end of the Initial Term. The Initial Term and the Renewal Terms are collectively referred to in this Agreement as the Term.

9.2. Early Termination. If Customer terminates this Agreement prior to the end of the Initial Term, LifePics will not be obligated to refund to Customer any fees paid in advance of such termination and Customer will immediately pay LifePics a cancellation fee equal to one hundred percent (100%) of the monthly license fee and monthly service charge for each month remaining in the Term commitment. Any cancellation request will be effective sixty (60) days after LifePics' receipt of written notice making such request and

no request for cancellation will relieve Customer of any obligations to pay fees accrued prior to the actual date of Service cancellation.

9.3. Termination. Either party may terminate this Agreement if the other party breaches any material provision of this Agreement and does not cure such breach (provided that such breach is capable of cure) within thirty (30) days after being provided with written notice thereof. Notwithstanding the foregoing, LifePics may terminate this Agreement immediately upon written notice if Customer, in any manner, breaches Section 6.4 or Section 12.

9.4. Effect of Termination. If Customer or LifePics initiates termination of this Agreement, Customer will be obligated to pay the balance due on Customer's account. Upon termination by either party, (a) each party will immediately return all copies of the Confidential Information and all other property belonging to and/or received from the other party; (b) LifePics will promptly return or destroy any and all copies of Content in its possession to Customer, including, without limitation, photographs, and text and (c) Customer will promptly return or destroy any and all copies of LifePics materials in its possession to LifePics, including, without limitation, photographs and text. All payment obligations as defined in this Agreement, will survive termination. Customer agrees that LifePics may charge such unpaid fees to Customer's credit card or otherwise bill Customer for such unpaid fees. Sections 0, 4, 6.4, 7, 9.4, 10.2, 10.3, 11, 12, 13 and 14 will survive termination of this Agreement for any reason.

10. REPRESENTATIONS & WARRANTIES; DISCLAIMER.

10.1. Representations and Warranties. Each party represents and warrants that it has the legal power and authority to enter into this Agreement and that it will comply with all applicable federal, state and local laws including tax laws in the performance of its obligations hereunder. LifePics represents and warrants that it will provide the Services in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Services will perform substantially in accordance with the online LifePics help documentation under normal use and circumstances. In addition, Customer represents and warrants that Customer has not falsely identified Customer or provided any false information, that Customer's billing information is correct and no materials provided by Customer for inclusion in the Co-Branded Web Pages infringes or violates any Intellectual Property Rights, publicity or privacy rights of any third party and are not libelous. LifePics will at its option, as its sole obligation and Customer's sole and exclusive remedy for any breach of the warranty set forth in this Section 10.1, equitably extend the applicable Term or re-perform the Services which gave rise to the breach.

10.2. Warranty Disclaimers. OTHER THAN WARRANTIES EXPRESSLY SET FORTH IN SECTION 10.1, LIFEPICS MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO ANY PERSON OR ENTITY WITH RESPECT TO THE SERVICES, THE LIFEPICS SITE, ITS MARKS OR OTHERWISE, AND LIFEPICS HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED,

INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OF DATA, TITLE, NON-INFRINGEMENT AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. CUSTOMER ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES PROVIDED HEREIN AND THAT NO WARRANTIES ARE MADE HEREIN BY ANY OF LIFEPICS' SUPPLIERS.

10.3. Internet Delays. LIFEPICS' SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. LIFEPICS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

11. INFRINGEMENT CLAIMS.

11.1. Indemnification by LifePics. LifePics will defend, at its own expense, any action against Customer brought by a third party to the extent that the action is based upon a claim that the Services or Software infringes any copyrights or misappropriates any trade secrets or that LifePics has used User Data in violation of the terms of this Agreement, and LifePics will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Customer: (a) promptly notifying LifePics in writing of such action; (b) giving LifePics sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at LifePics' request and expense, assisting in such defense. Notwithstanding the foregoing, LifePics will have no obligation under this Section 11.1 or otherwise with respect to any infringement claim based upon: (1) any use of the Services not in accordance with this Agreement; (2) any use of the Services in combination with products, equipment, software, or data not supplied by LifePics if such infringement arises from such combination with such other products, equipment, software or data; (3) any modification of the Software by any person other than LifePics or its authorized agents or subcontractors; or (4) any Content. THIS SECTION 11.1 STATES LIFEPICS' ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT CLAIMS OR ACTIONS.

11.2. Indemnification by Customer. Customer agrees to defend, indemnify and hold LifePics harmless from and against any claims, suits, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) brought by third parties resulting from or relating to) alleging that the Content or Customer's use of the User Data infringes the rights of, or has caused harm to, a third party. The foregoing obligations are conditioned on LifePics: (a) promptly notifying Customer in writing of such action; (b) giving Customer sole control of the defense thereof and any related settlement negotiations; and (c) cooperating and, at Customer's request and expense, assisting in such defense.

12. CONFIDENTIALITY.

12.1. Confidential Information. Each party (the "Disclosing Party") may from time to time during the term of this Agreement disclose to the other party (the "Receiving Party") certain information regarding the Disclosing Party's business, including technical, marketing, financial, employee, planning, and other confidential or proprietary information ("Confidential Information"). The Disclosing Party will mark all Confidential Information in tangible form as "confidential" or "proprietary." The Disclosing Party will identify all Confidential Information disclosed orally as confidential at the time of disclosure. Regardless of whether so marked or identified, however, any information that the Receiving Party knew or should have known, under the circumstances, was considered confidential or proprietary by the Disclosing Party, will be considered Confidential Information of the Disclosing Party.

12.2. Protection of Confidential Information. The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of the Disclosing Party only to the employees or contractors of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than the Receiving Party's duty hereunder. The Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Receiving Party protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

12.3. Exceptions. The Receiving Party's obligations under Section 12.2 with respect to any Confidential Information of the Disclosing Party will terminate if and when the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is or was disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing Party's Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is (i) approved in writing by the Disclosing Party, (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order of a court of similar judicial or administrative body, provided that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

12.4. Return of Confidential Information. The Receiving Party will return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the Disclosing Party or

the expiration or termination of this Agreement, whichever comes first.

13. LIMITATION OF LIABILITY. IN NO EVENT WILL LIFEPICS' AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER IN THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM OR, IF CUSTOMER PAID A SINGLE PAYMENT IN ADVANCE AND NO USAGE FEES, THE AMOUNT OF THAT PAYMENT. IN NO EVENT WILL LIFEPICS OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OR CORRUPTION OF DATA, LOST REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF LIFEPICS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LIFEPICS WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY MISCALCULATION OF SALES TAX AMOUNTS GENERATED BY THE CO-BRANDED WEB PAGES.

14. GENERAL.

14.1. Notice. All notices, consents, and approvals under this Agreement must be delivered in writing by electronic mail, courier, electronic facsimile (fax), or certified or registered mail, (postage prepaid and return receipt requested) to the other party at the address for each party set forth above, and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner. Either party may change its address by giving notice of the new address to the other party in writing.

14.2. Modification to Terms. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) will add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) will be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. To be effective, any waiver or modification of our Agreement must be in writing and signed by the party against which it is asserted. The exercise by either party of any remedy under this Agreement will be without prejudice to its other remedies, under this Agreement or otherwise.

14.3. Assignment. Customer may not assign or transfer, by operation of law or otherwise, any of its rights under the Agreement (including its licenses with respect to the Software) to any third party without LifePics' prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. LifePics will have the right to assign this Agreement to any successor to its business or

assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.

14.4. Governing Law. This Agreement will be governed by Colorado law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service will be subject to the exclusive jurisdiction of the state and federal courts located in Denver, Colorado.

14.5. Dispute Resolution. Upon any dispute, controversy or claim between the parties, either with respect to the interpretation of any provisions of the Agreement or an Order Form, or with respect to the performance of the parties under the Agreement or an Order Form, at the request of either party, each of the parties will designate a representative from its senior management who (to the extent practicable) does not devote substantially all of his or her time to performance under the Agreement to attempt to resolve such matter. The designated representatives will negotiate in good faith in an effort to resolve the dispute for a period of thirty (30) days after the date of the notice of the dispute. In the event that the parties' designated representatives are unable to resolve the dispute within such thirty (30) day period, or any additional extension of time that is mutually agreed upon by the parties in writing, either party may elect to proceed with legal action with respect to such dispute. Notwithstanding the foregoing, neither party will be bound to follow the dispute resolution process described in this Section 14.5 with respect to any dispute: (a) which involves or relates to any payment, Confidential Information, inventions or other intellectual property rights, or (b) for which interim relief from a court is necessary to prevent serious and irreparable injury to a party.

14.6. Independent Contractors. No joint venture, partnership, employment, or agency relationship exists between Customer and LifePics as a result of this agreement or use of the Service.

14.7. Enforcement. If any legal action is brought to enforce this Agreement, the prevailing party will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

14.8. Force Majeure. Neither party will be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for payment obligations) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

14.9. Waiver. The failure of LifePics to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed to by LifePics in writing.

14.10. Construction. The headings of Sections of the Agreement and any Order Form are for convenience and are not to be used in interpretation.

14.11. Entire Agreement. This Agreement, including any schedules, together with any applicable Order Form, comprises the entire agreement between Customer and LifePics and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.