

# INDEPENDENT DISTRIBUTOR AGREEMENT

Please read this electronic agreement in full. By participating in CORE Facilitator Training with the intent of becoming a certified CORE Facilitator and Independent Distributor of CORE products, you agree to comply with and be bound to the terms and conditions within. "NCI" or "us" or "we" or "ours" refers to **NaviCore International, Inc.**, the owner of this website and having its principal office in Dallas, Texas. The term "Distributor" or "you" or "your" refers to you personally and applies to any assigns who utilize CORE or have access to the Resource Center on your behalf. This agreement is effective immediately upon beginning CORE Facilitator Training and shall remain in effect throughout the term of your certification. Certain terms and conditions shall extend beyond certification as laid out below:

**WHEREAS,** NCI is engaged in the design, development and distribution of a wide variety of assessments and training products, including, but not limited to, its proprietary evaluation and assessment instruments, the *CORE Multidimensional Awareness Profile*, the *CORE Personal Effectiveness Profile*, and the *CORE Abbreviated Congruence Evaluation* (collectively called "Products"); and

**WHEREAS,** Products may be used by a wide variety of private businesses, government agencies, trade associations and non-profit organizations in the areas of pre-employment screening, employee counseling, staff development, employee effectiveness and productivity, and organizational growth and reorganization; and by individuals for personal growth and development, career development and relationship enhancement; and

**WHEREAS,** Distributor desires to offer and sell Products and has represented to NCI that he/she possesses the skills, resources and abilities to use his/her best efforts to serve as an effective Distributor, and

**WHEREAS,** subject to the terms and conditions contained herein, NCI is willing to grant to Distributor the right and license to offer Products;

**NOW, THEREFORE,** in consideration of the mutual premises, covenants, agreements, representations and warranties herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, intending to be bound, agree as follows:

## **1. Grant of Independent Distributorship**

NCI hereby grants to Distributor a non-exclusive right to the use and sale of Products, and Distributor hereby accepts the non-exclusive right. Distributor prices are set forth in the Distributor Price List which may be amended by NCI from time to time in writing, all in accordance with the terms and conditions hereinafter set forth. Products, materials and intellectual property rights shall remain the sole property of NCI and shall be subject to the terms and conditions set out herein.

## **2. Distributor's Responsibilities**

Distributor agrees to:

- a) Complete certification training provided by NCI and demonstrate proficiency in administration and facilitation of Products to NCI's satisfaction.
- b) Once certified, use best efforts to promote and sell Products.
- c) Provide prompt, efficient, effective and courteous service to all clients who have purchased Products from Distributor.
- d) Conduct him/herself in a polite, honest and professional manner at all times while representing NCI and shall

present self and NCI in the best possible light. At no time will he/she make exaggerated claims in connection with the presentation of NCI related products and programs. Whether programs are conducted at a NCI facility or off-site, all standards of appearance and conduct shall apply.

- e) Comply with all applicable present and future federal, state, county and local laws, ordinances and regulations.
- f) Maintain the minimum requirements for annual certification renewal as posted in the Facilitator Resource Center.
- g) Direct its sales personnel to: (1) properly and effectively demonstrate, care for, install and sell Products; and (2) understand and follow approved marketing, distribution and sales policies.
- h) Receive and investigate all complaints from consumer end-users, and make good faith efforts to resolve all such complaints in a fair and equitable manner to the client's satisfaction.
- i) Acquire and maintain at its expense all necessary computer hardware and software and related office equipment to adequately serve its clients.
- j) Provide and maintain all necessary personnel to properly maintain Distributor's business operations.

### **3. Responsibilities of NaviCore International**

NCI shall:

- a) Provide specific training and certification to Distributor for the CORE Multidimensional Awareness Profile and where applicable, for related products to enable Distributor to proficiently administer same.
- b) Provide initial general guidelines in the areas of marketing strategy and use of Products.
- c) Wholesale to Distributor, as needed, Products, basic marketing materials, and new products as they become available.
- d) Provide access to online assessments and support sites.
- e) Provide on-going technical support and consultation from time to time at its sole discretion.

### **4. Relationship of Parties**

The relationship between NCI and Distributor during the term of this Agreement will be that of vendor and vendee. NCI has not granted Distributor a franchise, and the relationship of the parties is expressly not that of franchiser and franchisee. Distributor is not the agent or representative of NCI for any purpose whatsoever and is not granted, under this Agreement or otherwise, any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of NCI or to bind NCI in any manner whatsoever.

Distributor is an independent contractor, not an officer, agent, or employee of NCI and as such, is fully responsible for all taxes and licenses as are required by the City, State, or Federal Governments. NCI bears no responsibilities for Distributor beyond the proper and honest representation of Products.

### **5. Price and Payment Terms**

Product purchases shall be based on NCI's established Distributor price list in effect at the time of purchase. Base price is determined by Distributor level attained through training and/or volume purchased. NCI shall have the right to change any price from time to time (including renewal and licensing fees), but shall give Distributor a minimum of 30 days advance notice of such change. All prices and terms of sale are F.O.B. NCI shipping point. All payments shall be by check, credit card or cash with order, unless other arrangements are made prior to shipment.

### **6. Orders**

All orders for the Products shall be subject to acceptance or rejection, in whole or in part, by NCI, at its sole discretion and as deemed in its best interests. Any order, once placed with and accepted by NCI, can be canceled only with NCI's consent and upon terms that indemnify NCI against any and all loss.

**7. Shipment**

NCI shall determine the method and route of shipment of all orders. Title and ownership pass to Distributor on NCI's delivery of the goods to the carrier.

**8. Indemnification**

Distributor agrees to indemnify NCI, save and hold harmless against any and all claims for loss, liability or damage, including attorneys' fees, arising out of or in connection with acts done or to have been done by Distributor or its agents, or arising out of, or in connection with negligent omissions of Distributor.

**9. Assignment**

Distributor shall not directly or indirectly transfer or assign, nor attempt to transfer or assign this Agreement, or any right or obligation hereunder, without the prior written consent of NCI and executed by same. Consent will not be unreasonably withheld.

**10. Term, Termination, and Non-disclosure**

- a) The term of certification under this Agreement shall be for one (1) year from the date of certification, subject to annual renewals thereafter, provided that: (1) the Distributor is in good standing under this Agreement, and (2) Distributor has met all minimum requirements as determined by NCI and as posted in the Facilitator Resource Center. Should minimum requirements not be met, this contract will be automatically terminated unless otherwise stated in writing by NCI.
- b) Distributor may terminate this Agreement without cause at any time by giving sixty (60) days advance written notice to NCI. Notwithstanding the foregoing, NCI may terminate Distributor immediately upon written notice of a material violation by Distributor, and/or demand correction of such violation within seven (7) days of notification.
- c) NCI shall not be liable to Distributor for any incidental or consequential damages, whether in the form of lost profits or otherwise, and whether directly or remotely sustained or caused by negligence or otherwise, by reason of any termination, non-renewal or expiration of this Agreement. Termination, non-renewal or expiration of this Agreement shall not operate as a cancellation of any indebtedness owing to NCI by Distributor at the time of such termination.
- d) Distributor will be privy to proprietary materials, procedures, and intellectual property which may not be shared in any form, either verbally or through any written or electronic media with individuals who are not licensed to use said materials, procedures and intellectual property, except as provided under the terms of this agreement.

**11. Effect of Termination**

Upon any termination, Distributor will immediately discontinue the use of Products and take all necessary steps to return to NCI all copies, in whatever form, of any proprietary training or marketing materials, and to disassociate itself from any express or implied relationship with NCI. Distributor may liquidate remaining inventory to *existing clients* for a period of sixty (60) days from the date of termination. If terminated for cause Distributor will immediately cease and desist from use of the Products, and NCI may demand return of the Products at its option. Further, NCI may seek relief by way of temporary restraining order or injunction to remedy any misuse of Products. Termination of this agreement by either party, with or without cause, does not release Distributor from its agreement to non-disclosure. Any attempt to disclose or duplicate proprietary materials, procedures, and/or intellectual property will constitute a breach of contract and will result in legal action. Distributor understands and agrees that should any legal action be required to protect the properties of NCI, Distributor will be responsible for all legal and related costs incurred as is outlined in 13 (e) below.

**12. Copying of Products**

No materials may be copied or reproduced in any form without the written permission of NCI. Distributor understands and agrees that all Products, marketing materials, sales literature and related documentation (collectively the Copyrighted Materials) are copyrighted and fully owned by NCI. No right, expressed or implied, is granted to Distributor, under this Agreement or otherwise, to reproduce in any manner or medium the Copyrighted Materials, nor is Distributor authorized to allow others to reproduce or copy the Copyrighted Materials. Copying materials will constitute a breach of contract and may result in legal action. Distributor understands and agrees that should legal action be required to protect the properties of NCI, Distributor will be responsible for all legal and related costs as is outlined in 13 (e).

### **13. Special Acknowledgments by Distributor**

- a) The trademarks, copyrights and trade secrets relating to Products/Programs shall at all times remain the sole and exclusive property of NCI. It is expressly understood that no license to use these trademarks, copyrights or trade secrets is created hereunder. Distributor may not use the trademarks owned by NCI in any manner (including but not limited to sales and advertising, business, trade or corporate name; letterhead and business cards; Internet website, etc.) except as may be incidental to identify NCI as the developer and owner of the intellectual property relating to Products. Distributor shall not use any of the trademarks used or owned NCI in identifying its own company name other than to identify itself as an authorized distributor of CORE Products.
- b) No representation, claim or warranty has been made by NCI, its employees, or representatives, relating directly or indirectly to the level of income that Distributor is likely to earn as a result of being awarded the distributorship in accordance with the terms described herein. The success of the business venture contemplated to be undertaken by Distributor by virtue of this Agreement is speculative and depends, to a large extent, upon the ability of Distributor as an independent business person, and its active participation in the daily affairs of the business as well as other factors. NCI does not make any representation or warranty, express or implied, as to the potential success of the business venture contemplated hereby.
- c) Distributor acknowledges that it has entered into this Agreement after making an independent investigation of NCI operations and not upon any representation as to gross revenues, volume, potential earnings or profits which Distributor in particular might be expected to realize, nor has anyone made any other representation which is not expressly set forth herein, to induce Distributor to accept and execute this Agreement. Distributor represents that this Agreement has been read in its entirety and Distributor has been given the opportunity to clarify any provisions that were not understood. Distributor further represents that the terms, conditions and obligations of this Agreement are understood and agrees to be bound thereby. This Agreement supersedes all prior agreements, understandings, negotiations or discussions by and between Distributor and NCI or any of its agents, or employees.
- d) Distributor agrees to abide by the terms, conditions and requirements of NCI and of the creators of the CORE assessments and related Products, and to represent both accurately and professionally at all times. Any potentially damaging action or misrepresentation of NCI or of CORE Products will result in immediate dismissal and/or legal remedies for any damages that result from such actions or misrepresentations.
- e) All products, programs, and materials developed by NCI are, and will remain, the sole property of NCI, and Distributor shall not make use of any such programs or materials except as a licensed distributor of NCI Products. Neither shall Distributor make any derivative or facsimile of any products or materials provided by NCI. Any unauthorized use or disclosure will constitute grounds for immediate termination and subsequent legal action, including, but not limited to, issuance of cease and desist orders, and recovery of any losses or damages caused by such unauthorized use. Should any such legal action to protect NCI's rights and properties become necessary through misuse or misconduct by Distributor, Distributor will be liable for all attorney fees incurred to so protect NCI's rights and properties and NCI will determine the place and jurisdiction of any such legal action as may be necessary.
- f) The responsibility for generating leads, obtaining clients and producing revenue rests solely with Distributor. NCI is not obligated in any way to assist Distributor, either directly or indirectly in securing accounts, locations or sites for Distributor. Distributor agrees that the initial training provided by NCI, which includes, in part, general guidance for marketing strategies, does not constitute direct or indirect assistance in procuring accounts on Distributor's behalf.
- g) The purchase by Distributor of any other Products, marketing materials or supplies from NCI during the term of this

Agreement are made on a final sale basis. NCI shall be under no obligation to refund any part of the price for annual renewals, Products or any ongoing supplies, marketing materials or inventory, nor shall it be under any obligation to repurchase these items, though rights to repurchase all materials may be exercised NCI's discretion.

- h) Any initial or periodic training or seminars provided by NCI from time to time shall be designed to facilitate the administration of Products. Distributor understands and acknowledges that the success of its distributorship depends primarily on its own efforts and that any assistance provided by NCI shall not be deemed to be significant as defined by the federal and state franchise laws.
- i) If Distributor requests the assistance of NCI in selling to a specific client, or if a retail lead provided to Distributor by NaviCore International results in a sale, Distributor agrees to pay to NCI a 20% commission on the initial sale and on all subsequent sales to that client for a period of twelve (12) months from the date of the initial sale (commission is of *gross proceeds*).
- j) Distributor is not an exclusive agent of NCI and may market the products of other organizations while in association with NCI.
- k) Distributor agrees to not use the name "NaviCore International" or "CORE" in Distributor's company name or general marketing to the public. However, Distributorship may be identified as an authorized distributor for the products offered by NCI. Distributor further agrees that, if it uses NCI or CORE logos, it will only use the then-current version of said logo, as provided by NCI, and only when identifying itself as an authorized distributor of NCI Products. Without limiting any of NCI's rights hereunder, violation of this provision shall be a material violation of this Agreement.
- l) Distributor may use the NaviCore International and/or CORE logo on its printed materials provided the logo is not altered in any way. Distributor agrees to use the distributorship name and the words "Authorized CORE Distributor" or "Certified CORE Facilitator" everywhere the " NCI or CORE Logo" is used.
- m) Distributor agrees to immediately discontinue all use of NCI and CORE logos if this Agreement is terminated for any reason.
- n) Distributor agrees to the following guidelines when developing and presenting websites or marketing materials:
  - 1. Distributor may use the NCI or CORE Logo if it is less prominent and presented smaller than the distributorship's name, and accompanied by the words, "Authorized CORE Distributor" and/or "Certified CORE Facilitator."
  - 2. Distributor may place a link to: [www.coremap.com](http://www.coremap.com). The link to the CORE website must be identified with the official CORE logo and/or the label "Certified CORE Distributor."
  - 3. Distributor will not display the prices of any NCI Products.
  - 4. The name "NaviCore International ", "CORE", or the name of any NCI Product will not be used in Distributor's virtual domain name.
  - 5. The name "NaviCore International ", "CORE", or the name of any NCI Product will not be used in the heading of a website page or of marketing materials.
  - 6. Distributor's company name will be predominant, so as to clearly identify the website and marketing materials as being that of the dealership and different from the website of NCI.

#### **14. Miscellaneous**

- a) *Notices.* All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or if mailed, by certified or registered mail, return receipt requested, postage prepaid, to the parties at the addresses on the first page of this Agreement (or such other addresses that shall be given in writing by any party to the other).

- b) *Modification.* No alterations or variations of the terms and provisions of this Agreement shall be valid unless made in writing and signed by all of the parties hereto or their successors or assigns.
- c) *Final Agreement.* This Agreement contains the final and complete contract of the parties hereto and such Agreement supersedes all prior oral or written promises, undertakings, understandings or negotiations concerning the subject matter of this Agreement. This Agreement shall inure to the benefit and be binding upon NaviCore International and the Distributor, and their successors and assigns.
- d) *Governing Law.* This Agreement shall be construed and governed by the laws of the State of Texas and venue for any matter shall be in Dallas County, Texas unless Distributor is otherwise notified.
- e) *Counterparts.* This Agreement may be executed simultaneously in two or more parts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.
- f) *Exhibits and Schedules.* All exhibits and schedules referred to in this Agreement shall be attached hereto and are incorporated herein by reference.
- g) *Paragraph and Subparagraph Heading.* Paragraph and subparagraph headings inserted in this Agreement are for convenience only and shall not be deemed to have any legal affect whatsoever in the interpretation of this instrument.
- h) *Execution of Additional Documents.* The parties hereto agree that they will promptly execute any and all further documents necessary and/or appropriate for the consummation of this Agreement according to its terms and conditions.

*Survivability.* All obligations and covenants of the parties under this Agreement that the parties have expressly agreed to extend beyond the term of this Agreement shall survive any termination or expiration of this Agreement.
- i) *Severability.* This Agreement shall be deemed severable, and if any portion hereof shall be held invalid for any reason, the remainder shall not thereby be invalidated, but shall remain in full force and effect.
- k) *Non-waiver.* Except as otherwise expressly provided in this Agreement, no failure of the parties to exercise any powers given them under this Agreement or to insist upon strict compliance of any contract obligation and no custom or practice at variance with the terms thereof shall constitute a waiver of the parties' rights to demand exact compliance with the terms hereof. If either party hereto has breached any of the provisions of this Agreement, the failure of the other party promptly to give written notice of termination shall not constitute waiver of such party's rights to termination for such breach or any other breach.
- l) *Review of Agreement.* Distributor acknowledges that it has had the opportunity to review and study this Agreement, has had the time to consult with others and has had sufficient time to consider and understand the terms as set forth herein.
- m) *Mutual Covenant.* All parties agree to work in the best interest of their association at all times and to put forth their best efforts, each to ensure the success of the other.

Your participation in CORE Facilitator Training and access of the CORE Facilitator Resource Center using your private access information constitutes your agreement to the terms and conditions herein.