

Miva Affiliate Program Terms & Conditions

These *Miva Affiliate Program Terms & Conditions* (the “Program Terms”) set forth the terms and conditions of your Business’s participation as an affiliate (“you” or “Affiliate”) in the Miva Affiliate Program (the “Program”), subject to your acceptance into the Program, which shall be at the sole discretion of Miva, Inc. (“Miva”). By completing an application or signup form to participate in the Program (“Application”), you warrant that (i) the information you provide in the Application is true and correct, (ii) you are authorized to submit the Application on behalf of the entity (“Business”) named in your Application, (iii) you are at least eighteen (18) years of age and authorized to bind the Business to the Program Terms, and (iv) you have read, understand, and agree to be bound by the Program Terms.

These Program Terms are effective as of the date of your acceptance into the Program, or the date the Program Terms were last modified by Miva, whichever is later (“Effective Date”). These Program Terms contain the entire agreement between Miva and Affiliate with respect to the subject matter hereof, and supersede all prior and/or contemporaneous agreements or understandings, written or oral, between Miva and Affiliate, with respect to the subject matter hereof.

1. Definitions.

"Advertisements" or "Advertising" means, as provided or otherwise approved by Miva, any and all banner or box-style advertisements, pop-up or pop-under placements, text links or other similar solicitations through the Internet that promote Miva Services, as defined in these Program Terms, and/or that contain a link to Miva’s Website.

"Affiliate Lead" means any person or entity, other than Affiliate, who (i) has not previously purchased a product or service from Miva, communicated with Miva directly, or been referred to Miva by a third party, and (ii) who has communicated with Affiliate directly, and expressed an interest in Miva Services.

"Affiliate’s Website" means the Website address provided by Affiliate in its Application for the participation in the Program.

"Initial Monthly Subscription Fee" means the first monthly subscription rate, paid by the Referred Customer for Miva Services, less any discounts, credits or refunds. No additional payments that Miva collects from the Referred Customer, including but not limited to payments for subscription changes, price increases, or additional licenses or websites added by the Referred Customer after their Initial Order Date, will be eligible for Commission.

"Initial Order Date" means the date on which the Referred Customer initiated its first subscription to Miva Services.

"Miva Services" means Miva’s proprietary, subscription-based Miva Merchant Software-as-a-Service. No other products or services offered by Miva are eligible for Commission. Such excluded products and services include, but are not limited to, Miva’s professional

and technical support services, additional hosting resources (e.g., disk, bandwidth, server cores, RAM), additional Miva Merchant admin seats, SSL certificates, domain registration/renewal, and any other fees that Miva may otherwise receive from a Referred Customer.

“Miva’s Marks” means Miva’s trade names, trademarks, service marks, logos, and domain names.

“Miva’s Website” means www.miva.com, or any page, section, subsection or subdirectory thereof.

“Referred Customer” means an Affiliate Lead who subscribes to Miva Services within three (3) months of Affiliate Lead submission pursuant to section 2.1 herein. A Referred Customer shall be considered “Active” as long as the Referred Customer continues to subscribe to Miva Services.

“Successful Referral” means an Affiliate Lead has converted to a Referred Customer, effective as of the Order Date.

2. Affiliate Obligations.

2.1 Affiliate shall provide Miva with Affiliate Leads by personally introducing Miva to Affiliate Leads, or by emailing affiliate_referrals@miva.com with the following information: Affiliate Lead’s company name, domain, and point of contact’s name, phone number and email address.

2.2 If Affiliate will be handling implementation of the Miva Software for a Referred Customer, Affiliate agrees to abide by the terms of the Miva Implementation Policy for Agency Partners, which is attached as Addendum 1 to these Program Terms and incorporated herein by reference.

2.3 To continue to qualify for the Program, Affiliate must make at least three (3) Successful Referrals per calendar year. (If Affiliate is accepted into the Program in Q3 or Q4, only one (1) Successful Referral per calendar quarter shall be required for the remainder of Affiliate’s first calendar year participating in the Program.) In the event that Affiliate fails to meet this requirement during any calendar year during the Term, Affiliate’s participation in the Program shall automatically terminate on December 31st of that year, and Affiliate shall no longer be eligible to earn Commission (defined in section 3.1 below), unless otherwise approved in writing, by Miva, in its sole discretion.

3. Commissions.

3.1 During each month of the Term in which Miva receives payment for Miva Services, from an Active Referred Customer, Affiliate will earn 20% of the Active Referred Customer’s Initial Monthly Subscription Fee (a “Commission”).

- 3.2 Commission will be paid within forty-five (45) days following the end of the month in which Miva collected payment from the Active Referred Customer.
- 3.3 Affiliate understands and agrees that all terms on which the Miva Services are offered, to a Referred Customer, are made in Miva's sole and absolute discretion, including but not limited to rates, discounts, refunds, and payment schedules, even if they affect Affiliate's Commission. If Referred Customer's subscription rate for Miva Services falls below the Referred Customer's Initial Monthly Subscription Fee, Affiliate's Commission will be reduced accordingly.
- 3.4 Miva reserves the right to adjust your Commissions, for up to one (1) year after payment, as a result of: chargebacks, reporting errors, fraudulent sales, fraudulent or automated clicks or intentional manipulation of the registration or sales process, all as determined in Miva's sole and absolute discretion. No Commission will be paid with respect to any Referred Customer obtained as a result of promotional efforts that violate these Program Terms.

4. **Term & Termination.**

- 4.1 These Program Terms shall remain in effect until terminated (the "Term"): (a) by automatic operation pursuant to section 2.2 herein, or (b) by Miva, for any or no reason, following at least thirty (30) days prior written notice to Affiliate. Following termination, Affiliate will immediately cease using any Advertising and remove Advertising from Affiliate's Website and any third party websites. **No Commission shall be payable with respect to any Referred Customers, following termination of the Program Terms.** Miva reserves the right to withhold final payment for up to 120 days as necessary to properly calculate final Commission payments due. Following termination of these Program Terms, Affiliate agrees to refund any Commission received during such time as Affiliate was in breach of these Program Terms.
- 4.2 Upon termination of these Program Terms, or termination of your participation in the Program, all rights and obligations of the parties under these Program Terms will be extinguished, except for those rights and obligations that either by their express terms survive, or that are otherwise necessary for the enforcement of these Program Terms.

5. **Advertising Guidelines.**

- 5.1 Unless otherwise approved by Miva, you may promote Miva Services, only through Advertisements on Affiliate's Website(s) or on third party websites for which you have received express written permission to place such Advertisements.
- 5.2 All promotional activities undertaken by Affiliate to promote Miva Services shall be made in accordance with prudent business practices, in accordance with all applicable laws and regulations and these Program Terms.

- 5.3 You agree to not create or modify any Advertising without the Miva's prior authorization. ALTERATION OR UNAUTHORIZED USE OF ADVERTISING IS STRICTLY PROHIBITED AND WILL RESULT IN TERMINATION OF YOUR PARTICIPATION IN THE PROGRAM.
- 5.4 You agree to not publish any prices, special offers or discounts in connection with Advertising, unless such prices, special offers or discounts were included by Miva in its unmodified Advertising, or were otherwise pre-approved in writing by Miva. You agree to make any changes to your use of the Advertising, as requested by Miva, and agree to replace any Advertising with new Advertising provided by Miva, within three (3) days after receiving notice from Miva of the new Advertising.
- 5.5 Affiliate shall not provide any Advertisement to any third party, sub-affiliate or agent without the written permission of Miva.
- 5.6 You agree to not post any of the following on any page on which Advertising appears: adult-oriented, sexually explicit or offensive content, images or content that is in any way harmful, threatening, obscene, harassing or racially, ethnically or otherwise legally or morally objectionable, as determined in Miva's sole discretion.
- 5.7 You agree that you will not bid on any of Miva's trademarked terms, including any variations or misspellings thereof, or in combination with any other keywords, without Miva's prior written consent.
- 5.8 Affiliate's Websites shall not in any way copy or resemble the look and feel of Miva's Websites, frame any page of Miva's Websites, create the impression that Affiliate's Website is Miva's Website or a part of Miva's Website, or use Miva's name or any variation or misspellings thereof in its URL.
- 5.9 You may not make any public announcement or press release about these Program Terms without Miva's prior written approval.
- 5.10 Miva hereby grants, to Affiliate, a revocable, non-exclusive, non-transferrable license to use Miva's Marks, subject to these Program Terms and in accordance with any branding guidelines or other requirements provided by Miva. All goodwill associated with Miva's Marks shall inure solely to Miva's benefit, and Affiliate agrees that it shall take no action to damage the goodwill associated with Miva or Miva's Marks. Miva reserves the right to revoke this license, at any time, for any or no reason, effective three (3) days following Miva's written notice to Affiliate. Unless earlier revoked by Miva, this license shall automatically terminate, upon termination of these Program Terms.
6. **Non-Disparagement.** During and after the Term, Affiliate will not disparage Miva, the Miva's Website or any of Miva's products or services, or portray any of these in a derogatory or negative manner.

7. **Rights and Obligations of Miva.** Affiliate acknowledges that Miva owns all right, title, and interest in the following: (a) Miva's Website and any Advertising that Miva may provide to Affiliate, including, without limitation, any proprietary or trade secret information, patents, copyrights, trademarks, know-how, as well as moral rights and intellectual property rights; and (b) all information created or collected in the operation of Miva's Website, including without limitation: (i) contact information collected from any Affiliate Leads or Referred Customers; and (ii) information regarding pricing and/or sale of Miva products or services ("Sales Information"), which Affiliate agrees to not use or disclose to any third party without Miva's prior written approval. Miva shall have no liability or obligation to Affiliate for damages arising out of, or in connection with, the delivery, use or performance of Miva's products or services by a Referred Customer.
8. **Indemnification.** Affiliate agrees to indemnify, defend and hold Miva harmless from all claims, damages, losses, and expenses (including, without limitation, attorneys' fees and costs, payable as incurred) relating to the development, operation, maintenance, and content of Affiliate's Website, violation of these Program Terms, and/or violation of the rights of any third party.
9. **Program Disclaimers.** YOU UNDERSTAND THAT THE MIVA (MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT DIFFER FROM THOSE CONTAINED IN THESE PROGRAM TERMS OR MAY OPERATE WEBSITES THAT ARE SIMILAR TO OR COMPETE WITH YOUR WEBSITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN MIVA'S AFFILIATE PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THESE PROGRAM TERMS.
10. **Limitation of Liability.** UNDER NO CIRCUMSTANCES WILL MIVA BE LIABLE, WHETHER IN TORT, CONTRACT OR OTHERWISE, FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO DAMAGES FOR ANY LOSS OF REVENUE, PROFITS, BUSINESS INTERRUPTION, LOSS OF GOODWILL) ARISING FROM OR RELATED TO THESE PROGRAM TERMS OR MIVA'S AFFILIATE PROGRAM. WITHOUT LIMITING THE FOREGOING, MIVA'S AGGREGATE LIABILITY ARISING OUT OF THESE PROGRAM TERMS SHALL NOT EXCEED THE GREATER OF: TOTAL COMMISSIONS PAID OR PAYABLE TO AFFILIATE UNDER THESE PROGRAM TERMS OR \$25,000.
11. **Headings.** The headings of sections of these Program Terms are included solely for convenience of reference and are not to be used to interpret, construe, define, or describe the scope of any aspect of these Program Terms.
12. **Governing Law, Venue.** These Program Terms shall be deemed to have been executed and performed in San Diego, California, and shall be governed by and construed in accordance with the laws of the State of California (without regard to conflict of law principles).

13. **No Waiver.** No waiver of any provision of these Program Terms shall constitute a continuing waiver, and no waiver shall be effective unless made in a signed writing.
14. **Modifications.** Miva reserves the right to modify these Program Terms, at any time, by posting updated Program Terms to Miva's Website and notifying Affiliate of same. By continuing to participate in the Affiliate Program, Affiliate agrees to be bound by such modifications to the Program Terms.
15. **Independent Contractors.** Affiliate and Miva are independent contractors, and nothing in these Program Terms will create any partnership, joint venture, agency, franchise, sales representative, or employment or agency relationship between the parties. Affiliate, as an independent contractor, will have sole responsibility for its expenses, taxes, employees, sales representatives and agents. Affiliate has no authority to make or accept any offers or representations on Miva's behalf. Affiliate will not make any statement, whether on Affiliate's Website or otherwise, that reasonably would contradict anything in these Program Terms.
16. **Assignment.** These Program Terms may not be assigned or otherwise transferred by Affiliate without the express written consent of Miva, which shall not be unreasonably withheld. Miva reserves the right to assign these Program Terms to a third party, in the event of an acquisition, sale or merger of Miva.
17. **Severability.** If any provision of these Program Terms is held illegal, invalid or unenforceable for any reason, that provision shall be enforced to the maximum extent permissible, and the other provisions of these Program Terms shall remain in full force and effect.
18. **Notice.** Notices and other communications to you, as required or permitted to be given hereunder, that are posted on Miva's Website and/or otherwise e-mailed to the e-mail address you have designated on your Application or by subsequent written notice to Miva, shall be deemed effective upon posting or e-mailing. Notice or other communications to Miva shall be sent by e-mail to affiliate_referrals@miva.com and shall be deemed effective one business day after e-mailing.

Last updated September 25, 2023.

Addendum 1 to the Miva Affiliate Program Terms & Conditions

MIVA IMPLEMENTATION POLICY FOR AGENCY PARTNERS

The below document covers the basic requirements for partners to successfully implement a standard Miva build as well as equip new customers for long term success.

It is the responsibility of the agency to ensure that the below requirements are achieved and the site is successfully launched, inclusive of project and launch management and any 3rd party integrations.

Miva will provide the following support for agencies and customers during this process:

All Customers will receive

- Technical Assistance Center (24/7 emergencies, 7am-10pm ET for standard support)
- Developer Support (Business Hours)
- Access to exclusive newsletters, events, and virtual office hours/webinars
- In App Onboarding
- Digital Onboarding Guide + Video Library
- Round Robin Customer Onboarding support through Customer Success Help Desk

Premium customers over \$18,000/year in Miva software spend will receive the following additional support

- Named Onboarding/Training Specialist for onboarding window and 30 day post launch window
- Review of SOW
- Creation of supplemental guided onboarding package to be completed within 6 months of contract signature

A standard Miva implementation includes the following components:

- Global Elements
- Storefront
- Data Migration
- Data Management
- Shipping
- Payment
- Tax
- Marketing
- Misc. Pages
- Order Processing
- General Store Management

GLOBAL ELEMENTS

Customer Responsibilities:

- Provide company style guide if available (font treatments, colors, etc.)
- Provide updates to global messaging, navigation structure

Agency To Complete:

- Global Styling / Look & Feel (*Level of updates based on agreement with customer*)
- Update Header Marketing Message
- Validate or update Support Page Navigation
- Validate or update Phone Number
- Update Footer Category Navigation
- Update Footer Quick Links Navigation
- Setup Social Links and style
- Integrating Newsletter provider with signup form

Required Customer Training:

- Where to find and update navigation sets
- Where to find and update global marketing message

STOREFRONT

Customer Responsibilities:

- Provide marketing goals, imagery, and content

Agency to Complete:

- Determine which page builder components will be leveraged
- Configure components with the assistance of the customer
- Optimize any marketing images

Required Customer Training:

- Where to find page builder
- How to update, add/remove, and schedule components
- Best practices on image optimization

DATA MIGRATION & CONFIGURATION

Customer Responsibilities:

- Provide guidance on what data needs to be moved from the legacy store to the Miva store
 - If orders need to be transferred, it should be documented in SOW
- Default data should include Products, Categories, and Customers. If any additional data needs to be moved it needs to be discussed explicitly and immediately in the build process.
- After mapping exercise, the customer to provide the agency details on any data which does not map to Miva standard fields
- If store tracks inventory, determine how inventory is deducted, and how it is updated
- Determine any additional data (ex: gift certificates) that needs to be transferred.

Agency to Complete:

- Determine how data will be moved from legacy system to Miva
- Conduct a data mapping exercise for current products, categories, customer fields, and identify any custom fields that need to be created.
- Evaluate the most effective process for the customer to add product photos and create new image types in Miva if needed.
- If included in SOW, transfer of orders at least once during the build, and once during the go live process
- Plan for data refresh to ensure any data added to legacy store is properly migrated to Miva pre-launch. This may be done periodically during the implementation and/or via a data refresh prior to go live.

DATA MANGEMENT

Customer Responsibilities:

- Provide business rules for product, category, and customer data

Agency to Complete:

- Top Level
 - Work with customer to determine how they will make ongoing data updates
- Categories
 - Configuration of any custom fields to be used on category page
 - Utilize category tree images if applicable
 - Assign products
 - Determine and implement Category Parent / Child structure
 - Discuss Miva Facets with customer, and basic configuration if applicable
- Products
 - If customer attributes and variants are used, determine plan for ongoing management of inventory and product updates.
 - Implement inventory tracking / product page stock messaging
 - Setup image types before synching images
 - Configure of custom fields to be used on product or category pages
 - Add logic that is associated with custom fields
- URI setup & Management
 - URI setup for all page types
 - Plan for 301s which may need to be updated by customer

Required Customer Training:

- How to update URIs 301s for category, product, and pages
- Copy Product
- How to update description, prices, images, custom fields
- Update inventory messages (globally, and locally)
- Low Stock, and Out of Stock levels can be different per product
- Where and how to update SEO content for all pages
- Email notifications on stock levels
- How to update inventory
- Where and how to download any import templates
- How to use import/export CSV
- How to update variant products
- Variant image swap on product selection
- Adding additional Miva facets

SHIPPING

Customer Responsibilities:

- Document and share selected shipping partners & shipping business rules
- Outline any current shipping restrictions (product or customer level)
- Determine which shipping options display
- Add credentials or required items for module configuration
- Indicate whether shipping tracking links will be used

Agency to Complete:

- Review business rules to determine best shipping solutions
- Identify and install correct modules, or if custom configuration that is required
- Work with customer to set up required credentials
- Set up any rules or restrictions (ex: impact to cross basket)
- Validate all shipping methods / customer selections are setup correctly
- Setup any shipping tracking links
- Setup a shipping fallback method
- Determine which shipping method will be used test orders

Required Customer Training:

- Where to find shipping settings & modules
- Impact of shipping priorities
- How to update “Display As”
- How to use Rate Adjustments
- How to setup shipping rules on a product level
- How to use availability groups related to shipping
- Options for shipping restrictions, and how to update (zip code, state, country)

PAYMENT

Customer Responsibilities:

- Selected payment providers & business rules
- What payment options need to display and any associated rules
- Add any credentials or required items for setup
- Decision whether to use MivaPay
- If they currently or plan to use gift certificates

Agency to Complete:

- Review business rules to determine best payment solutions
- Identify and install correct modules, or if custom configuration is required
- Work with customer on setting up any required credentials
- Enable MivaPay if applicable
- Validate all payment methods / customer selections are setup correctly
- Setup a payment fallback method
- Determine which payment method will be used for test orders
- Validate setup for payment collection (authorize / capturing)
- Discuss and configure reCAPTCHA options if applicable

Required Customer Training:

- Where to find payment settings & modules
- Impact of payment priorities
- How to update “Display As”
- How to setup payment rules on a product level
- How to use availability groups related to payment
- Options for shipping restrictions, and how to update (zip code, state, country)
- How to use account credit / create gift certificates
- Shop as customer (saved payment methods)
- Where to monitor authorization failures

TAX

Customer Responsibilities:

- Share current tax collection practice / configuration
- Identify if store has tax-exempt customers

Agency to Complete:

- After customer has consulted with their Tax provider, determine if Miva State based shipping, AvaTax, or TaxJar may be used
- Add any modules

Required Customer Training:

- Where to locate tax modules / settings
- How to add state-based tax
- How to update customer profile if tax exempt

MISC PAGES

Customer Responsibilities:

- Provide list of any pages that need to be moved over to Miva
- Provide content for privacy policy, FAQ, Shipping & Return Policies, About Us

Agency to Complete:

- Validate that contact us details are correct (phone & address)
- Update content for privacy policy, FAQ, Shipping & Return Policies
- Collaborate with customer on About Us page builder configuration

Required Customer Training:

- Which content sections are updated using content sections vs page builder pages
- Where to find and update pages & content sections
- How to update FAQ html
- How to add additional components to pages
- How to create new Page Builder content pages

MARKETING

Customer Responsibilities:

- Document which promotions, business rules, and active coupons are needed
- Specify whether gift certificate balances need to be transferred
- Catalog current marketing feeds and tracking scripts that will need to be migrated
- Identify if any items that should never be discounted (ex: gift certificates)

Agency to Complete:

- Configure Google Analytics
- Configure Site Map
- Transfer and setup marketing feeds and tracking scripts
- Configure Sale pricing
- Set up Gift Certificates
- Identify any mixed basket issues based on marketing rules.
- Determine plan of action for any gift card transfers at time of launch

Required Customer Training:

- How to set up price groups
- Price group eligibility, and types
- Price group settings, basket description, qualifications
- Price Groups landing page, and impact of priorities
- Price group scheduling
- How to configure exclusions using batch lists
- Where to apply discounts to all product unless excluded
- How to utilize availability groups with Price Group
- How to setup single & bulk coupons, and their association with price groups
- How to use product include/exclude
- Understand how to use settings for include/exclude/combo/same item/same item groups

ORDER PROCESSING

Customer Responsibilities:

- Documenting and sharing order fulfillment business rules
- If any third-party order processing connection is required

Agency to Complete:

- Customize email templates with data needed
- Ensure all modules/connections are added and configured
- Determine if customer has a need for order workflows

Required Customer Training:

- Customer to understand what to do once they get their first order
- How to create batch orders, set a report, and process unbatched orders
- Resend an order email to the customer, or another person
- How to setup an order workflow
- How to manage email templates
- Place an order in the admin
- Add an item to an order in the admin
- Shop as customer functionality
- Review Baskets functionality

GENERAL STORE MANGEMENT

Customer must be able to do the following on their own:

- Update error messages
- Creating / Customizing reports
- User Management & Customize User Groups
- Availability Groups
- Advanced Search best practices
- Preview Store functionality