

AFFILIATE AGREEMENT

This AFFILIATE AGREEMENT (“Agreement”) contains the terms and conditions that apply to your participation as an affiliate (“you,” “yours,” or “Affiliate”) in the Affiliate Program of _____, (“we,” “us,” “our,” or the “Company”), having an address of _____.

Affiliate represents and warrants to Company that Affiliate has read and understands the Company Policies that are set forth herein and/or on its web site and agree to the terms set forth therein. Our Affiliate Program is administered through our Company pursuant to the policies at our Company web site, as well as stated herein.

Affiliate acknowledges that it may participate in the Affiliate Program only under the terms and conditions set forth below, and that subsequent to Company accepting this Agreement, Company will, in its sole discretion, determine whether or not to accept Affiliate into Company’s Affiliate Program.

1. Relationship of Parties

You and we are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on our behalf. You will not make any statement, whether on your site or otherwise, that reasonably would contradict this statement.

All Affiliates must be 18 years of age or older. If you are under 18 years of age, you are not permitted to be an Affiliate.

2. Term and Termination

The term of this Agreement will begin when you accept the Agreement, and will end when terminated by either party. Either the Company or you may terminate this Agreement at any time, with or without cause, by giving the other party written notice of termination. Upon the termination of this Agreement for any reason, all licenses granted hereunder shall immediately terminate and you will immediately cease use of, and remove from Affiliate's Web Site, all links to Company’s Web Site and all other materials provided in connection with this Agreement, if any. You are only eligible to earn commissions on sales occurring during the Term, and commissions earned through the date of termination will remain payable only if the product orders are not canceled. Company may withhold final payment for a reasonable time to ensure against cancellation.

3. Qualifying Sites

Company reserves the right not to accept any site into the Affiliate Program based on site content or that in our sole discretion are not suitable for our Affiliate Program for any reason, including,

harmful, threatening, defamatory, obscene, sexually explicit harassing, or racially, ethically, or otherwise objectionable . Sites that Do Not Qualify for the Affiliate Program include sites which:

- Promote illegal activities
- Promote violence
- Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age
- Promote sexually explicit materials
- Infringe or otherwise violate any copyright, trademark, or other intellectual property rights of a third party.

4. Company Material

Affiliate agrees to receive email from Company, including but not limited to, promotional materials, newsletters, and other correspondence. Affiliate agrees to only present Company, Company products and services as set forth by Company, as stated in Web Site or Company materials. Affiliate will make no claims regarding potential income, earnings, products, or services beyond what is stated by the Company or in Company Web Site. Affiliate also agrees not to reproduce commission checks or distribute commission checks in any form or by any means. Affiliate further agrees not to disparage Company, Company products or services other Company Affiliates in any manner. Affiliate understands that disparagement may result in the immediate termination of Affiliate account with a cancellation of any pending commissions.

5. Commissions

Affiliate will receive _____ percent (__%) of the sale as a commission from orders placed through our Affiliate Site (unless noted otherwise for a particular product), minus the amount of any returns, chargebacks, taxes or shipping and handling charges. For a sale to generate a commission to an Affiliate, the customer must complete the order form and remit full payment for the product ordered. Commissions will only be paid on sales that are made through qualified Affiliate links.

6. Payment

All Affiliate payments will be made in U.S. dollars. If a sale is canceled or refunded, any paid commission will be deducted from a subsequent payment. Affiliate commissions will not be paid based upon amounts that are attributable to credit card fraud, credits given to customers, bad debt right-off and returned goods. Company reserves the right to deduct, in subsequent months, any commission paid for a product or service that is subsequently returned or refunded, or for any reason where the previous monthly commission was overpaid or later subject to reduction.

Affiliate is solely responsible for ensuring that their Affiliate Link is set up properly to have sales tracked and recorded to qualify for commissions. Company is not responsible for the failure to assign any sale or commissions to Affiliate if the same results from the improper formatting of any affiliate links.

Company will only pay commissions on sales that are tracked through our tracking system and indicate Affiliate as the source of the visit to Company Web Site. Affiliate has no right to commissions if a buyer later returns to the Company site through another Affiliate link or source and makes a purchase.

[Optional paragraph: Use This When No Future Commissions Are Paid]

Affiliate has no right to commissions based upon subsequent sales, or where “cookies” are used, overwritten or deleted, even where the customer first arrived at the Company site through your Affiliate link. Commissions will only be paid when the buyer makes a purchase on the same visit using your Affiliate Link of with your “cookie” indicating you as the Affiliate.

7. Order Fulfillment

Company or its representatives will be solely responsible for processing every order placed by a customer on the Affiliate Site. You are not authorized to sell any of these products from your site as a "reseller" and no "resale" rights are granted in ANY way on these products unless otherwise noted.

8. Customers

Customers who purchase products and services through the Affiliate Program will be deemed to be customers of Company. Accordingly, all rules, policies, and operating procedures concerning customer orders and service will apply to those customers. We may change our policies and operating procedures at any time. Prices and availability of our products and services may vary from time to time. Company policies will always determine the price paid by the customer.

9. Unsolicited Commercial Email or SPAM

Company in no way participates in mass unsolicited emailing (i.e. spamming), and all Affiliates are expected to adhere to this policy as well. Violation of this policy will result in the termination of this Agreement and immediate dismissal from Company’s Affiliate Program, with no further commissions being owed to you. Company may report spam, along with all spammer’s identifying information, to the Federal Trade Commission and other agencies for civil and criminal prosecution. For the purpose of this Agreement, SPAM is defined as emailing ANYONE, in bulk or by single mailing, about Company, Company products or services, who has not specifically requested the information directly from Affiliate.

10. Compliance with December 1, 2009 Revised FTC Advertising Guidelines

You agree to comply with the revised FTC guidelines on testimonials and affiliate endorsements that took effect on December 1, 2009. Those guidelines require, among other things, that your promotions disclose that you have a financial or other biased interest in whether someone purchases a product you are recommending (i.e. requires that you disclose that you are an affiliate). Those guidelines also require that any time above average testimonials are used to convey a certain marketing message, that the average results that the consumer should expect to achieve also be clearly disclosed. Company does not authorize you to use any testimonials with its products, except any that Company has on the pages hosted by Company. You hereby agree not to use fake testimonials or to otherwise engage in practices that would violate any federal or state advertising laws. Failure to comply with this provision can result in immediate termination of this Agreement and of your participation in the Affiliate Program, with no further commissions being owed to you.

11. Limitation of Liability

Company will not be liable for indirect, special, or consequential damages (or any loss of revenue, profits, or data) arising in connection with this Agreement or the Affiliate Program, even if we have been advised of the possibility of such damages. The Company's aggregate liability arising with respect to this Agreement and the Affiliate Program will not exceed the total commissions paid or payable to you under to this Agreement. Further, our obligations and Affiliate remedies are solely and exclusively as described and limited in this Agreement and if applicable, on the Company's Web Site Affiliate information.

12. Hold Harmless

Affiliate is solely and fully responsible for any and all costs and expenses Affiliate incurs in the marketing of the Company, Company products and services and Company's Affiliate Program. Affiliate agrees to hold Company harmless from same.

13. Disclaimers

We make no express or implied warranties or representations with respect to the Affiliate Program or your potential to earn income from the Affiliate Program. In addition, we make no representation that the operation of our site or the Affiliate links will be uninterrupted or error-free, and we will not be liable for the consequences of any interruptions or errors.

14. Offering

The Company location is stated in the first paragraph of this Agreement, and as an Affiliate you agree that this offering is made from the Company's location and shall be governed by the laws of the State where the Company is located in the U.S.A.

15. Jurisdiction and Disputes

This Agreement shall be governed by and construed in accordance with the laws of the State the Company is located in, as stated herein, without regard to any conflict of law rules. Any legal action arising out of this Agreement shall be litigated and enforced under the laws of the State where the Company is located. In addition, Affiliate agrees to submit to the jurisdiction of the courts of the State where the Company is located, and that any legal action pursued by Affiliate shall be within the exclusive jurisdiction of the courts of the city and state where the Company is located.

16. Assignment

You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns.

17. Modifications

The Company reserves the right to amend this agreement as needed from time to time, and Affiliate agrees that any and all such amendments will apply to the Affiliate. The continuation of Affiliate status, promoting or marketing the Company, Company products or services, or Affiliate's acceptance of income, shall constitute Affiliate's acceptance of any and all amendments. Affiliate agrees to review this Agreement for any changes or additions, monthly or at the beginning of each affiliate payout cycle, whichever is sooner.

18. Severability

In the event that any provision of this Agreement is held to be invalid or unenforceable, said provision shall be reformed only to the extent necessary to make it enforceable, and the balance of this Agreement will remain in full force and effect.

19. Miscellaneous

Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

If any of the provisions of this Agreement are determined by a court to be unenforceable, they shall be severed from this Agreement, and the remaining provisions shall remain in full force and effect.

20. Contacting Us

For further information, please send an email to _____, call us at _____, or send a letter to our address noted in the first paragraph.