

## **Affiliate Agreement**

The following are the terms and conditions of your agreement to become a member of our Affiliate Program. By applying to be an affiliate, and placing a link to our Club from your website, you agree to be bound by all the terms and conditions set forth in this agreement.

### **1. General Description**

1.1 Our Club derives subscription revenue from members who establish subscription accounts at the Club. Affiliates earn income as follows.

We will pay you, the Affiliate, 10% of the subscription fees generated by each account. This Affiliate fee will pay out the 15<sup>th</sup> of the month following the month for which the fee is earned. (The minimum fee payment must be \$20.00 before payment will be made.) This will pay each time the account bills (no minimum membership period required), and it will be for exactly 10% of whatever billing method the account chooses. (For example, if the account bills monthly at \$19.95, then the Affiliate will get \$2.00 each month; but if the account bills quarterly at \$50.85, then the Affiliate will get \$5.09 each three months.) Affiliate compensation arrangements are subject to change upon written notice to the Affiliate by us.

### **2. Modifying This Agreement**

2.1 We may modify any of the terms and conditions contained in this agreement, at any time and in its sole discretion, by sending you a notice identifying the changes and/or posting the new agreement on its website. Modifications may include, but are not limited to, changes in the referral fees, payment schedule or other rules. IF ANY CHANGE IN THE AGREEMENT IS UNACCEPTABLE TO YOU, YOU MAY TERMINATE THIS AGREEMENT BY NOTIFYING US IN WRITING AT [affiliates@theclubservices.com](mailto:affiliates@theclubservices.com) OR SUCH OTHER ADDRESS DESIGNATED BY US ON OUR WEBSITE FROM TIME TO TIME. CONTINUED PARTICIPATION IN THIS PROGRAM FOLLOWING OUR MAKING A CHANGE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

### **3. Endorsement of our Club**

3.1 By agreeing to participate in the Affiliate Program, you agree to create a unique link from your site to our Club. The form of such link must be approved by us, or by its agent. You shall not make any claims, representations, or warranties in connection with us, and you shall have no authority to, and will not, bind us to any obligation without first obtaining written permission from us or our authorized agent.

3.2 You agree to all of the terms set forth herein and to positively endorse us at all times and maintain a site content that is free of child pornography or other illegal sex acts, promotion of violence, promotion of discrimination based on race, sex, religion, nationality, disability, sexual orientation or age, promotion of illegal activities, other content reasonably deemed offensive by us, or violation of intellectual property rights. You must provide true and complete information to us at all times; including but not limited to, your identity, contact information, payment instructions, and any other information that we may reasonably request from time to time, including but not limited to tax reporting information.

3.3 We, hereby, grant you the non-exclusive right to direct individuals to our site and services, in accordance with the terms and conditions of this agreement. You shall have no claims to referral fees or other compensation on business secured or partially secured by or through persons or entities other than you. You also understand that we may at any time (directly or indirectly) solicit referrals on terms that may differ from those attained here, or operate or contract with websites that are similar to, or compete with, your website.

3.4 Your authorization to solicit members for us is expressly limited to those specific states of the United States and those countries which are listed as “eligible” in the Terms and Conditions of the Club, as amended from time to time.

#### **4. Your Duties; Responsibility for Your Site and Marketing Materials**

4.1 You agree that the intention of this affiliate program is to encourage referrals of new customers to our Club. You agree to act in good faith in accordance with this intention. Not by way of limitation, you agree not to join this affiliate program with the intention of you acting as your own affiliate or signing up more than one referred member per household. You agree and acknowledge that we may set referral volume requirements from time to time by posting such volume requirements to our site and may terminate this Agreement without further compensation to you or further notice to you if such volume requirements are not met.

4.2 In order to participate in the program, you must have registered a member account at our Club. You must not attempt to register another account for yourself, a member of your immediate family, or your household or any other person that has an existing account on the network under your affiliate account after you have started the program. All affiliate accounts must sign a minimum of 10 new Club subscriber accounts each month or this Agreement may be terminated without further compensation or further notice to you.

4.3 You may not pay or provide any other consideration to any member that you have referred to us without prior written consent. Under no circumstances may you provide member rewards or incentives (including monetary rewards, gifts, or otherwise) to any member that you have referred to us unless agreed to by us in writing.

4.4 You agree not to engage in spam, illegal solicitation, or fraudulent or deceptive solicitation. You agree not to copy the websites of other affiliates, or other gaming websites, copied websites, or similarly set up shadow websites which are reasonably intended to deceive the reader that the website is owned by any party other than you.

4.5 You are hereby advised that the use of adware, spyware or any other such software to direct traffic to the site is strictly and expressly forbidden.

4.6 You agree that any members referred by you to our Club are part of Club's proprietary customer list and that you have no ownership rights in such customer list. You agree not to independently contact such referred members without our prior written approval.

4.7 You will be solely responsible for the development, operation and maintenance of your web site and for all materials that appear on your web site. For example, you will be solely responsible for ensuring that materials posted on your site are not libelous or otherwise illegal. We disclaim all liability for these matters. Further, you will indemnify and hold us harmless from all claims, damages and expenses (including, but not limited to, attorneys' fees) relating to the development, operation, maintenance and contents of your site and marketing materials and your performance of this agreement. You agree to refrain from utilizing 'spam' for marketing our products and services (all email marketing must be based on commonly accepted opt-in rules).

4.8 You agree that you will not promote illegal internet gambling.

## **5. License to Use Marks**

5.1 We hereby grant you a non-exclusive, non-transferable license, during the term of this agreement, to use our Club intellectual property marks provided by us solely in connection with the promotion of the Club. This license cannot be sub-licensed, assigned or otherwise transferred by you. Your right to use the marks is limited to, and arises only out of, this license to use our material. You shall not assert the invalidity, unenforceability, or contest the ownership of the marks in any action or proceeding of whatever kind or nature, and shall not take any action that may prejudice our rights in the marks, render the same generic, or otherwise weaken their validity or diminish their associated goodwill. Further, you agree to keep information about our Club current on your site. You may not make any statement or representation that modifies any of the terms and conditions of our site and any action to the contrary is grounds for immediate termination of this agreement.

## **6. Confidential Information**

6.1 During the term of this agreement, you may be entrusted with confidential information relating to the business, operations or underlying technology and/or the referral program. You agree to avoid any disclosure to third persons or outside parties or unauthorized use of the confidential information unless you have our prior written

consent and that you will use the confidential information only for purposes necessary to further the purposes of this Agreement. Your obligations with respect to confidential information shall survive the termination of this agreement.

## **7. Fees, Fee Schedule and Payment**

See Section 1.1 above.

## **8. Term and Termination**

8.1 The term of this agreement will begin when you submit the acceptance page and will be continuous unless and until either party notifies the other in writing that it is terminating this agreement. Termination may be accomplished by either you or us for any reason or no reason at any time by providing notice to the other party. For purposes of notification, delivery via email is considered a written and immediate form of notification.

8.2 If termination is by us and is not caused by violation of this agreement, referral fees, as subject to modification described above, will continue until activity ceases to generate 2 new subscribers per month for a 2 month consecutive time period.

8.3 If termination is initiated by you or is by us as a result of a violation of this agreement or is due to activity ceasing to generate 2 new subscribers per month for a 2 month consecutive time period, you will not be entitled to unpaid referral fees, if any earned by you on or prior to the date of termination. Nor will you be entitled to referral fees with respect to play occurring after the termination date.

8.4 Upon termination you must remove all Club banners/icons from your site and disable the link from your site to our site upon termination of this agreement for any reason.

8.5 All rights and licenses given to you in this agreement shall immediately terminate upon termination of this agreement for any reason.

8.6 Upon termination of this agreement for any reason, we may withhold your final payment for a reasonable time to ensure that the correct amount is paid and all marks and links are removed.

8.7 Upon termination of this agreement for any reason, you will return to us any confidential information, and all copies of it in your possession, custody and control, and will cease all uses of any trade names, trademarks, service marks, logos and other designation of the Club.

8.8 Before or after termination of this agreement, we reserve the right to modify this agreement or the fee schedule as described above, with such modification effective immediately.

## **9. Relationship of Parties**

9.1 You and we are independent contractors and nothing in this agreement will create any partnership, joint venture, 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 contradicts this agreement or any of the Terms and Conditions of posted on our site

## **10. Indemnity**

10.1 You shall defend, indemnify, and hold us, its directors, officers, employees, software provider, payment processor(s), agents and representatives harmless from and against any and all liabilities, losses, damages, and costs, including reasonable attorney fees, resulting from, arising out of, or in any way connected with (a) any breach by you of any warranty, representation, or agreement; (b) the performance of your duties and obligations under this agreement; (c) your negligence; or (d) any injury caused directly or indirectly by your negligent or intentional acts or omissions, or the unauthorized use of our banners and link or this referral program.

## **11. Disclaimers**

11.1 We make no express or implied warranties or representations with respect to the referral program or referral fee payment arrangements (including, without limitation, their functionality, warranties of fitness, merchantability, legality, non-infringement, or any implied warranties arising out of a course of performance, dealing or trade usage).

11.2 We make no representation that the operation of our site will be uninterrupted or error-free, and we will not be liable for any consequences of any interruption errors.

## **12. Limitations of Liability**

12.1 WE 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 REFERRAL PROGRAM, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, WE AGGREGATE LIABILITY ARISING WITH RESPECT TO THIS AGREEMENT AND THE PROGRAM WILL NOT EXCEED THE TOTAL REFERRAL FEES PAID OR PAYABLE TO YOU UNDER THIS AGREEMENT.

12.2 Nothing in this agreement shall be construed to provide any rights, remedies or benefits to any person or entity not a party to this agreement. Our obligations under this agreement do not constitute personal obligations of shareholders. Any liability arising under this agreement shall be satisfied solely from the referral fee generated and is limited to direct damages.

12.3 We may in our sole discretion, with or without notice, use any available means to block or restrict certain members, sign ups, payment of membership fee or play patterns so as to reduce the number of fraudulent, unprofitable transactions or for any reason whatsoever, including but not limited to daily or monthly purchase limits, address verification or negative and positive credit card databases. We do not guarantee or warrant the success of such fraud prevention efforts.

### **13. Governing Law and Place of Contracting**

13.1 This agreement will be governed by the laws of the State of Delaware, without reference to rules governing choice of law. Any action relating to this agreement must be brought in Las Vegas, Nevada and you irrevocably consent to the jurisdiction of its courts.

13.2 This agreement is binding only when accepted by the company at its offices in Las Vegas, Nevada, which is mutually deemed to be the place of contracting.

### **14. Assignment**

14.1 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 and enforceable against you and us.

### **15. Non-Waiver/Final Agreement/Interpretation**

15.1 This is the final agreement between the parties that supersedes any oral or written communications that you may receive, and shall remain in force until modified by us. 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. **NO MODIFICATIONS, ADDITIONS, or DELETIONS OF THIS AGREEMENT BY YOU ARE PERMITTED OR WILL BE RECOGNIZED BY US.** None of our employees, officers or agents may verbally alter, modify or waive any provision of this Agreement.

15.2 The rule of construction that ambiguities are to be interpreted against the drafter shall not be applied in the interpretation of this Agreement.

15.3 This Agreement is drafted in the English language, and any discrepancies due to language interpretations or translations shall be superseded by the English language meanings.

### **16. Remedies**

16.1 Our rights and remedies shall not be mutually exclusive, i.e. the exercise of one or more of the provisions of this agreement shall not preclude the exercise of any other provision. You acknowledge, confirm and agree that damages may be inadequate for a

breach or a threatened breach of this agreement and, in the event of a breach, or threatened breach of any provision of this agreement, the respective rights and responsibilities of the parties may be enforceable by specific performance, injunction or other equitable remedy.

16.2 Nothing contained in this agreement shall limit or affect any of our rights at law, or otherwise, for a breach or threatened breach of any provision of this agreement, it being the intent of this provision to make clear that our respective rights and obligations shall be enforceable in equity as well as at law or otherwise.

## **17. Severability/Waiver**

17.1 Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law but, if any provision of this agreement is held to be invalid, illegal or unenforceable in any respect, such provision will be ineffective only to the extent of such invalidity or unenforceability, without invalidating the remainder of this agreement or any other provision. No waiver will be implied from conduct or failure to enforce any rights and must be in writing to be effective.

## **18. Operating Agreement and Disclosure**

18.1 You understand that gambling laws may vary from city to city, state to state and country to country. YOU HAVE INDEPENDENTLY EVALUATED THE LAWS IN YOUR LOCALE WHICH APPLY TO YOUR ACTIVITIES AND REPRESENT TO US THAT YOU MAY PARTICIPATE IN ITS AFFILIATE PROGRAM WITHOUT VIOLATING ANY APPLICABLE RULES OR LAWS.

18.2 By submitting your request to become an affiliate, you acknowledge that you have read this agreement and have independently evaluated the desirability of participating in this program and are not relying on any representation, guarantee, or statement other than what is set forth in this agreement, and that you agree to all its terms and conditions.

18.3 YOU ACKNOWLEDGE THAT YOU HAVE READ AND AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE LIABILITY LIMITATIONS AND DISCLAIMERS IN CAPITALIZED LETTERS ABOVE.

Last Modified: January 2008