Brand ambassadors and Affiliate Marketers are two different marketing programs with the same goal of spreading awareness about your brand. Brand ambassadors are usually unpaid marketers who expose your brand to others. Affiliate Marketers are independent contractors who get paid to refer your product to others.They get a percentage commission for the amount of referrals purchased with their link. For a good affiliate or referral program, consider using www.referralcandy.com

[put logo here]

AFFILIATE MARKETING AGREEMENT

This Affiliate Marketing Agreement (“Agreement”) is a binding legal contract between you (“Affiliate Marketer”) and [insert business name].

1. [insert business name] Affiliate Marketing Program

[insert business name] operates [insert website] and offers an affiliate program through which approved persons/companies operating their own sites are granted a revocable, limited, and non-exclusive right to lawfully:

a. Advertise and promote [insert business name] products, services, and the Website in a manner approved by [insert business name];

b. Post approved graphic or textual hyperlinks (“Qualified Links”) to the Website;

c. Direct users from the Affiliate Marketer’s site to a URL designated by [insert business name];

Affiliate Marketers may earn a commission (“Commission Fees”) in accordance with Section 6 for any product or service sold through the Website to any user resulting from an Affiliate Marketer site lead.

2. Approval

a. Participation in the [insert business name] Affiliate Marketing Program is subject to [insert business name] approval, in its sole discretion.

3. Term and Termination

a. [insert business name] or Affiliate Marketer may terminate this Agreement at any time for any reason.

b. [insert business name] may terminate this Agreement at any time, without penalty or payment, if Affiliate Marketer:

 i. Promotes illegal activity;

ii. Promotes sexually explicit, pornographic, or obscene content;

iii. Promotes discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;

iv. Promotes graphic violence;

v. Promotes content that is unlawful, harmful, threatening, defamatory, obscene, harassing, discriminatory, or otherwise objectionable, in [insert business name] sole discretion;

vi. Promotes spam email;

vii. Promotes content related to liquor, tobacco, firearms, drugs, gambling, death, or crime;

viii. Promotes politically sensitive or controversial issues, or other political content;

ix. Causes or enables links to the Website which are not made in good faith, including, but not limited to, by means of any device, program, robot, I-frames, hidden frames, popup windows or redirects;

x. Allows third parties to place links to the Website without [insert business name] prior written consent;

xi. Breaches any provision of this Agreement;

xii. Dilutes, blurs, or tarnishes [insert business name]’s trademarks or service marks; and/or

xiii. Engages in conduct that is considered inappropriate by [insert business name], in its sole discretion.

c. For purposes of notification of termination, email is considered an immediate form of notification.

d. [insert business name]’s termination of this Agreement does not relieve Affiliate Marketer from any liability arising from any breach of the Agreement.

e. Upon termination of this Agreement;

i. Affiliate Marketer shall not be entitled to Commission Fees for Qualifying Links delivered after the date of termination;

ii. Affiliate Marketer shall be entitled only to unpaid Commission Fees earned by Affiliate Marketer at the time of termination;

iii. All rights and licenses granted to Affiliate Marketer shall immediately terminate, and Affiliate Marketer agrees to cease using all names, trademarks, service marks, logos, links, and other designations of [insert business name].

iv. Affiliate Marketer shall return to [insert business name] all confidential information.

4. Licenses

a. [insert business name] and Affiliate Marketer shall retain all right, title, and interest in their names, logos, trademarks, service marks, trade dress, copyrights, and proprietary technology currently used and/or developed in the future.

b. Upon approval, [insert business name] will provide Affiliate Marketer the logos and graphics for links and will grant Affiliate Marketer a limited, revocable, non-transferable, non-exclusive license during the term of this Agreement to post on Affiliate Marketer’s sites that have been approved by [insert business name] in advance, and to direct users to the Website in accordance with the provisions of this Agreement.

c. Affiliate Marketer agrees not to sublicense, assign, or transfer any such licenses, and any attempt by Affiliate Marketer to sublicense, assignment, or transfer is void.

5. Usage Terms

Affiliate Marketer agrees that it will comply with the following:

a. The link between Affiliate Marketer’s site and the Website must be a direct link with no pop-up windows or redirects.

b. The link between the Affiliate Marketer’s site and the Website may not be re-branded or co-branded by Affiliate Marketer.

c. The link between the Affiliate Marketer’s site and the Website may not contain trojan horses, worms, spyware, viruses, or other harmful programming.

d. The link must incorporate a unique tag provided by [insert business name] to allow for accurate tracing, reporting, and credit for Commission Fees. Affiliate Marketer will only earn Commission Fees for activity on the Website that happens directly through tagged links.

e. Affiliate Marketer will not copy, distribute, modify, reverse engineer any of [insert business name]’s links or content, or create derivative works thereof.

f. Affiliate Marketer will not alter [insert business name]’s Website in any way.

g. Affiliate Marketer will not include [insert business name]’s trademarks or service marks in the domain name(s) of Affiliate Marketer’s site.

6. Commission Fees

a. For products or services sold through the Website to any user through a Qualifying Link from an approved Affiliate Marketer, Affiliate Marketer will earn [insert percentage amount] of the gross sale, less returns or cancelations.

b. Commission Fees will be payable to Affiliate Marketer via PayPal [insert amount of days] days from the date of the sale of the products or services.

c. Affiliate Marketer agrees that all agreements relating to sales to users will be between [insert business name] and the user.

d. All determinations [insert business name] makes of Qualifying Links and Commission Fees due to Affiliate Marketer are final and binding.

e. Only Affiliate Marketers approved by [insert business name] at the time of receipt of a user purchase will be eligible for payment under this Agreement.

f. As independent contractors, Affiliate Marketers are solely responsible for any and all taxes and/or other fees or obligations associated with the receipt of payment under this Agreement.

g.  Affiliate can not make commissions on their own purchases.

7. General Advertising Requirements

a. Affiliate Marketer’s site must have bona fide content and may not use or employ domain names which are similar to [insert business name]’s trademarks, service marks, or the Website. Affiliate Marketer’s site may not incorporate any of the trademarks or service marks as metatags on any pages on Affiliate Marketer’s site. Affiliate Marketer may not use search engine placements based on [insert business name]’s trademarks, service marks, or domain names based on misnomers, pseudonyms, misspellings, typos, or similar phonics relating to [insert business name]’s trademarks, service marks, or Website.

b. Affiliate Marketer agrees not to:

i. Make or publish any statement, claims, representation, or warranty about [insert business name]’s products or services which could be deemed to be a binding offer, obligation, or guarantee by [insert business name];

ii. Misrepresent the products or services provided by [insert business name] or the Website;

iii. Imply an affiliation or relationship with [insert business name], other than that of advertiser;

iv. Solicit users via email;

v. Solicit users via telemarketing;

vi. Solicit users via pop-up ads; or

vii. Provide cash or other in-kind payments to users as an incentive to complete an action on the Website.

 c. Affiliate Marketer represents and warrants:

i. Affiliate Marketer has established and implemented practices and procedures, and a reasonable monitoring system to ensure that it’s site and advertising practices are in full compliance with all federal, state, and local laws and regulations, including but not limited to, the Federal Trade Commission Act, the CAN-SPAM Act of 2003, and the Federal Telemarketing Sales Rules.

ii. Affiliate Marketer will immediately notify [insert business name] in writing if it receives any complaints or notices from any governmental agency (including any third-party claims asserted in state or federal courts) referencing a violation of any federal, state, and local laws and regulations.

iii. Affiliate Marketer will indemnify, defend, and hold harmless [insert business name] from any and all third-party claims resulting or arising from Affiliate Marketer’s acts or omissions.

8. Compliance with Federal Trade Commission (“FTC”) Act

a. Pursuant to Section 5 of the FTC Act and the FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising, Affiliate Marketer agrees to include the following disclosures on the following platforms:

i. Twitter / Facebook / Instagram / Snapchat: When Affiliate Marketer posts Qualifying Links or other content approved by [insert business name] on Twitter, Facebook, Instagram, Snapchat, or other social media platforms, the post must include either the word, “Ad,” or “Sponsored,” at the beginning of the post to disclose that Affiliate Marketer may receive compensation from endorsing [insert business name]’s products or services.

ii. Blog: When Affiliate Marketer posts a Qualifying Link or other content approved by [insert business name] on a blog, Affiliate Marketer must include the following disclosure, clearly and conspicuously, at the top of the blog post containing the Qualifying Link or other content: “Disclosure: I am an affiliate marketer and receive compensation when you buy products or services from the affiliate links below.”

iii. Site: When Affiliate Marketer posts a Qualifying Link or other content approved by [insert business name] on its site, Affiliate Marketer must include the following disclosure, clearly and conspicuously, at the top of the page that includes the Qualifying Link or other content: “Disclosure: I am an affiliate marketer and receive compensation when you buy products or services from the affiliate links below.”

iv. Online Reviews: When Affiliate Marketer posts a Qualifying Link or other content approved by[insert business name] on a review site, Affiliate Marketer must include the following disclosure, clearly and conspicuously, at the beginning of the review that contains the Qualifying Link or other content: “Disclosure: I am an affiliate marketer and receive compensation when you buy products or services from the affiliate links below.”

v. Other Platforms: When Affiliate Marketer posts a Qualifying Link or other content approved by [insert business name] on other platforms, Affiliate Marketer must include the following disclosure, clearly and conspicuously, as close as possible to the Qualifying Link or other content: “Disclosure: I am an affiliate marketer and receive compensation when you buy products or services from the affiliate links below.”

b. Affiliate Marketers agree that disclosures relating to Qualifying Links or

other content approved by [insert business name] must conform with the following

general disclosure requirements pursuant to the FTC Guides Concerning

the Use of Endorsements and Testimonials in Advertising:

i. Frequent: Disclosures must appear on any page that has a review, recommendation, comment, post, endorsement, or article that promotes a product or service for which Affiliate Marketer receives compensation.

ii. Clear: It must be immediately clear that Affiliate Marketer receives compensation for the review, recommendation, comment, post, endorsement, or article that promotes a product or service for which Affiliate Marketer receives compensation.

iii. Conspicuous: Disclosures must be clear, easy to see, begin with the word, “Disclosure,” and require no scrolling in order to find. For the disclosure to be considered clear, the font should be: a) at least as large as the main text on the page; b) in a color other than black or gray; c) in contrast with both its background and the main text; and d) darker than its background or the main text.

iv. Require No Action: Disclosures must be immediately evident to a typical user that Affiliate Marketers receive compensation for the review, recommendation, comment, post, endorsement, or article that promotes a product or service.

v. More information about the FTC disclosure requirement is available at: a) Guides Concerning the Use of Endorsements and Testimonials in Advertising; b) The FTC’s Revised Endorsement Guides: What People are Asking; and c) Dot Com Disclosures: Information About Online Advertisings.

9.LIMITATION OF LIABILITY

IN NO EVENT SHALL [insert business name], ITS MANAGERS, MEMBERS, EMPLOYEES, LICENSORS, SUPPLIERS, OR AGENTS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM YOUR ACCESS TO OR USE OF THE WEBSITE, CONTENT, USER SUBMISSIONS OR THE PRODUCTS AND SERVICES AVAILABLE ON THE WEBSITE. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

YOU AGREE THAT THE MAXIMUM TOTAL LIABILITY OF [insert business name], ITS MANAGERS, MEMBERS, EMPLOYEES, LICENSORS, SUPPLIERS, OR AGENTS TO YOU FOR ANY CLAIM UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE ACTUAL TOTAL AMOUNT RECEIVED BY [insert business name] FROM YOU TO ACCESS THE WEBSITE AND/OR USE THE SERVICES. IF YOUR USE OF THE WEBSITE, SERVICES, AND/OR GOODS RESULTS IN THE NEED FOR SERVICING, REPAIR, OR CORRECTION OF EQUIPMENT OR DATA, YOU ASSUME ALL COSTS THEREOF. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10. Indemnity

You agree to defend, indemnify and hold harmless [insert business name], its managers, members, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney’s fees) arising from: (i) your use of and access to the Website; (ii) your violation of any term of this Agreement; (iii) your violation of any third-party rights, including without limitation any intellectual property, property, or privacy right; or (iv) any claim that one of the Qualifying Links caused damage to a third party or to [insert business name]. This defense and indemnification obligation will survive this Agreement and your termination of use of the Website.

11. Miscellaneous

a. Amendments and Waivers. Any term of this Agreement may be amended or waived only with the written consent of [insert business name].

b. Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.

c. Choice of Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of [insert your state], without giving effect to the principles of conflict of laws.

d. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

12. Contact Us

If you have questions about this Agreement, please contact us at [insert email address].

I agree to the terms.

X\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

signature