

# PLATINUM EVENTS AFFILIATE AGREEMENT

This PLATINUM EVENTS Affiliate Agreement (the "Agreement") is made and entered into by and between PLATINUM EVENTS (hereinafter "PE") , and the party submitting an application to become a PE affiliate, or having an accepted application ("Affiliate" or "you").

The terms and conditions contained in this Agreement apply to your participation as an Affiliate in any affiliate program ("Affiliate Program") for which Affiliate is approved by PE.

Each Affiliate Program offer (an "Offer") may be for any Affiliate Program offering by or through PE, including but not limited to offerings described on a specific web site for a particular Offer ("Program Web Site"). Each Offer may have additional terms and conditions on the Program Web Site for that Affiliate Program. All such terms and conditions are incorporated as part of this Agreement, except to the extent they are the subject of a separate agreement required for participation as an Affiliate for that Program.

By submitting an application or participating as an Affiliate of PE, you expressly consent to all the terms and conditions of this Agreement, and to the terms and conditions of any Affiliate Program in which you participate.

## 1. Application for the PE Affiliate Program

You must submit an Affiliate Program application ("Application") in order to be considered for selection as a PE Affiliate. Only completed applications providing ALL requested information will be considered.

You must accurately complete the Application. You agree and understand that you must provide us with your true identity, physical address, phone number, and other contact information, as well as business and banking information as requested. You may not use any alias, pseudonym, persona, pen name, DBA, or other means to mask your identity or business details.

You understand that you must update your Application in the future if the information you have provided changes or is updated. Any false or incorrect information, or a

failure to update the Application, is cause for rejection of your Application, or if later discovered, immediate termination of your Affiliate status without compensation.

After we review your Application, we will notify you in due course of your acceptance or rejection as an Affiliate. We may accept or reject your Application at our sole discretion for any reason.

By submitting an application to be considered as an Affiliate, you affirm and acknowledge that you have read this Agreement in its entirety, understand it, and agree to be bound by all of its terms and conditions. If you do not wish to be bound by this Agreement, you should not submit an application to be considered as an Affiliate.

## 2. Acceptance as an Affiliate

Upon acceptance, Affiliate will be notified by email. The email may contain one or more Affiliate credentials (including an affiliate username, affiliate ID number, login password, affiliate URL, or the like). The acceptance email and Affiliate credentials may not be shared with any person outside Affiliate's organization.

Acceptance as a PE Affiliate does not assure your eligibility for every Affiliate Program or Offer by PE. You understand that PE reserves the right at any time to limit some Affiliate Programs or Offers to certain affiliates at its sole discretion (based e.g. on need, prior results or performance, experience, market size, compatibility of the Program with the Affiliate, or other criteria of PE's choosing).

## 3. Compensation

PE will pay Affiliate for each Customer Acquired or Qualified Action (the "Commission") as defined below.

Earned commissions ("Commissions Due") shall be paid to Affiliate monthly for commissions earned before the end of the prior month, provided:

1. PE has received any funds due and owing from the relevant Customer(s) for the current period; and,
2. The refund period on the sales for which Commission apply has passed (currently 30 days).

Affiliate agrees that PE shall only be liable for payment of commissions to the extent that PE has received all funds due and owing from the relevant Customer(s) after the refund period has passed. You hereby release PE from, and agree to hold PE

harmless for any claim for Commissions otherwise due Affiliate to the extent PE has not received all such funds from the relevant Customer(s).

For purposes herein "Customer Acquired" means a sale of a product or service in accordance with this Agreement, and the specific terms and conditions of any PE Affiliate Program or Offer.

For purposes herein "Customer" means the recipient of a sale of a product or service in accordance with this Agreement, and the specific terms and conditions of any PE Affiliate Program or Offer.

For purposes herein "Qualified Action" means an action taken by individual, natural person ("human") who fulfills the criteria set forth in an PE Affiliate Program or Offer where such actions are the result of sales or marketing or advertising activity of the Affiliate in accordance with this Agreement, and the specific terms and conditions of the Program or Offer.

For the sake of clarity and in addition to any specific terms or conditions set forth in a specific Program or Offer, a Qualified Action occurs when the person (i) accesses a Program Web Site or other URL via a Link, where the Link is the 'last link' used by that individual to access the Program Web Site or URL; and (ii) completes all of the information required for such action within the time period set forth in the Program or Offer.

A Qualified Action herein does not include any action (i) using the affiliates own link to purchase the product for their personal use; (ii) utilizing a computer generated user, such as a robot, spider, computer script or other automated means; (iii) involving any artificial or fraudulent method to appear like an individual, natural person; (iv) using pre-populated fields; (v) that is not a bona fide expression of interest by an individual natural person or is solely intended to generate a commission (vi) is later determined by PE to be fraudulent, incomplete, unqualified or a duplicate; or (vii) is obtained in violation of law, in violation of this Agreement, or in violation of any terms of conditions of the relevant Program or Offer. PE reserves the right to change attribution of a Commission at the request of a Customer. Such change shall be done within 30 days of the sale.

#### 4. Chargebacks, Offsets, Holdbacks, and Accounting

##### a) *Right to Chargebacks*

Affiliate understands and agrees the PE has the right to charge back Affiliate's account or otherwise adjust for any previously paid Commissions Due based on Customers and/or Qualified Actions that are later determined to have not met the requirements for Customers or Qualified Actions as set forth herein, or which were obtained contrary to the terms and conditions hereof ("Chargebacks"), or whose attribution was changed at a Customer's request.

b) *Right to Offset*

If Affiliate has any outstanding balance due to PE under this Agreement or any other agreement between Affiliate and PE, Affiliate expressly agrees that PE shall have the right offset any Commissions Due payable to Affiliate by the amount owed PE by Affiliate ("Offsets") (whether or not related to Affiliate Program) at any time under this Agreement. PE agrees to provide an accounting of any Offsets made based on this Section, including the source and amounts of such Offsets, in a statement provided to Affiliate hereunder.

c) *Right to Hold Back*

Affiliate understands and agrees that any earned commissions prospectively due Affiliates having less than \$100 (one hundred US dollars) in earned commissions will held back ("Holdbacks") until such time as the Commissions Due total at least \$100. Affiliate also understands and agrees that PE may hold a percentage of Commissions for a period of 90 days after sale to ensure ability to Offset (currently 10%).

d) *Accounting and Disputes*

PE shall provide a periodic invoice (monthly, unless otherwise specifically stated) on behalf of Affiliate for all commissions earned under this Agreement and shall remit any Commissions Due to Affiliate in accordance with the provisions hereof, subject to any Chargebacks, Offsets, and/or Holdbacks. Determinations of Affiliate's earned commissions, based on Customers or Qualified Actions shall be made by PE in its sole discretion, based on available data including cookies, tracking data, affiliate links, or the like. If Affiliate agrees with the amounts set forth in an invoice or does not timely dispute the invoice, then Affiliate agrees that it irrevocably waives any claims for the period of time covered by that invoice.

In the event that Affiliate intends in good faith to dispute any portion of an invoice, Affiliate must submit that dispute to PE in writing within thirty (30) days of the date on

the invoice (“Dispute”). Each Dispute shall set forth its own accounting, and the basis for Affiliate’s accounting or for other disagreement with regard to the invoice, in sufficient detail for PE to conduct a review. Affiliate shall include with each Dispute submitted any supporting evidence including Affiliate’s own tracking data with respect to Customers or Qualified Actions. If PE’s and Affiliate’s accounting vary by more than 10% and PE reasonably determines that Affiliate has used generally accepted industry methods to track Customers or Qualified Actions, then PE and Affiliate agree to make a good faith effort to arrive at a reconciliation. If the parties are unable to arrive at a reconciliation, then PE’s numbers shall govern.

## 5. Confidentiality

Affiliate agrees that all information, data, and strategies in connection with the PE Affiliate Program and any Offers in connection therewith are confidential, unless otherwise expressly provided in this Agreement or agreed in a writing signed by PE. For purposes herein “Confidential Information” includes, but is not limited to all PE business information, financial information, customer lists, vendor lists, pricing and sales information, customer or affiliate reviews, complaints, service or support issues, complaints, or as well as all information concerning PE or any of our affiliates provided by or on behalf of any of them. “Confidential Information” does not include information that is generally known or available to the public in its entirety, or obtained through a third party who has independently discovered or developed such information and is under no duty not to disclose it.

Affiliate agrees to hold all Confidential Information strictly confidential and/or secret, and to use its best efforts not to directly or indirectly disclose or reveal the Confidential Information to any third party. In no case shall Affiliate’s efforts fall below industry accepted standards for confidentiality, or be less than a reasonable businessperson would use to protect Confidential Information of similar value and importance.

Affiliate agrees not to use the Confidential Information, directly or indirectly, for any purpose other than for participation in the Affiliate Program. Affiliate shall not, directly or indirectly, for the benefit of any person, use any information obtained in connection with the PE Affiliate Program, including but not limited to Confidential Information, to create, develop, improve, or provide, any product or service that competes with the Affiliate Program.

## 6. Representations and Warranties

PE represents and warrants:

that PE shall not knowingly and intentionally violate any law, regulation, or rule applicable to PE's business operations or PE's proprietary products or services;

that the products and/or services offered in connection with the Affiliate Program and any Offers are legal products and services in PE jurisdiction; and

that this Agreement is being entered with full intention to be bound by the mutual promises, terms, and conditions set forth herein.

Affiliate represents and warrants:

that Affiliate has read this Agreement and understands its covenants, obligations, duties, responsibilities, and rights hereunder and will comply therewith;

that this Agreement constitutes Affiliate's valid and binding agreement, and Affiliate fully intends to be bound by its terms; and that the person signing this Agreement has full legal capacity and authority to enter into this Agreement on behalf of Affiliate and to bind any business entity to its terms;

that Affiliate's Application has been truthfully completed and that all information provided therein is true to the best of Affiliate's knowledge after a reasonable inquiry into the facts where needed;

that Affiliate understands and will comply with the CAN-SPAM Act in connection with any email marketing;

that Affiliate will comply with all applicable FTC rules and guidelines for its marketing or advertising efforts in connection with the Affiliate Program; that Affiliate will not use the PE name or any of the trademarks or service marks (whether registered or unregistered) of PE in any manner that is not expressly authorized hereunder, or which will disparage or portray the name or marks in a negative or false light, or imply ownership, or endorsement of Affiliate; and

that Affiliate will not engage in any conduct that violates the terms of this Agreement, or that constitutes or attempts to fraudulently or deceptively increase the earning of Affiliate under any Program or Offer.

## 7. Affiliate Tools: Creatives

For each Affiliate Program, PE will provide Affiliate with tools to assist Affiliate with success. Such tools may include graphic and textual links to a Program Web Site, copy, sample ads, model emails, and/or other creative materials (collectively, the

"Creatives") which you may display on web sites owned or controlled by you, in emails and other messages sent by you and clearly identified as coming from you, and in online advertisements (collectively, "Media"). The Creatives are solely for use by PE Affiliates in connection with an Affiliate Program and will establish a link from your Media to the Program Web Site. Affiliate may be required to modify the Creatives to include the Affiliate's specific information such as affiliate id or tracking information.

Affiliate shall be solely responsible for any errors or omissions in modifying or customizing the Creatives to incorporate Affiliate-specific information. Affiliate also accepts sole responsibility for the development, operation, maintenance of, and distribution of all content on or linked to, Affiliate's Media.

Use of the Creatives is subject to the Limited License provided herein.

## 8. Limited License & Intellectual Property

Subject to your acceptance as an Affiliate following review of your Application, PE hereby grants you a nonexclusive and nontransferable right to use the Creatives and to access Program Web Site through the Creatives solely in accordance with the terms of this Agreement. Such rights do not include any right to sublicense and are fully revocable without notice at the discretion of PE. The foregoing license is for the sole purpose of participant in the PE Affiliate Program and assisting in increasing Affiliate sales through the connection between the Media and the Program Web Site.

You may not alter, modify, manipulate or create derivative works of the Creatives or any PE graphics, creative, copy or other materials owned by, or licensed to, PE in any way without express written permission. Use of the Creatives under this license is strictly limited to Affiliates in good standing with the Affiliate Program.

Nothing in this Agreement grants you any rights other than those expressly provided in this section to any of PE's intellectual property including but not limited to trademarks, service marks, copyrights, patents or trade secrets.

### Terms and Conditions for Use of Creatives

In using the Creatives, Affiliate shall ensure that all materials posted on your Media or otherwise used in connection with the Affiliate Program:

(i) are not illegal nor used in connection with any illegal material;

(ii) do not contain or link to any material which a reasonably prudent business person would consider harmful, threatening, defamatory, obscene, sexually explicit, harassing, or promoting violence:

(iii) do not contain or link to material that promotes discrimination (whether based religion, race, ethnicity, nationality, disability, age, gender, or sexual orientation);

(iv) do not promote illegal activities (such as gambling, or illegal drugs);

(v) do not contains materials that PE has deemed objectionable, which are prohibited under the terms of any PE Affiliate Program or Offer, or which PE informs you that it considers objectionable (collectively, "Objectionable Content") and

(vi) do not infringe the intellectual property or related rights of any third party including moral rights, and rights of attribution.

## 10. Terms and Conditions for Affiliate Advertising and Marketing; Miscellaneous Advertising Provisions

Affiliate shall not make any representations or other statements concerning PE any PE product or service, except as expressly authorized herein, or under a Program or Offer.

Affiliate acknowledges that PE retains all rights in any Program Web Site or related material, including domain names. Affiliate's Media may not copy or substantially or confusingly resemble the look and feel of the Program Web Site or create the impression that your Media is endorsed to any extent by PE or constitutes an official part or extension of the Program Web Site, without prior written permission from PE. Affiliate should consider PE and its trademarks and service marks when securing domain names. Affiliates should obtain permission in writing if there is any question as to whether a particular domain name may infringe PE's rights, or may be construed as an implied endorsement. Do not jeopardize your status as an affiliate!

Affiliate shall prominently post and make available to end-users, an appropriate privacy policy that complies with all applicable local, state, and federal requirements. The privacy policy shall be made available to the end-user prior to the collection of any personally identifiable information, and shall clearly and thoroughly disclose all information collection, use and sharing practices, including providing for the collection of such personally identifiable information in connection with the Affiliate Program and the provision of such personally identifiable information to PE for use as intended by PE.



Affiliates shall also prominently post and make available to end-users any terms and conditions consistent with those in the Offer as set forth by PE, or as required by applicable laws regarding such Offers.

Affiliate shall not place ads related to any PE products or services on any online auction platform (i.e. eBay, Amazon, etc). Creatives may not appear to be associated with or be positioned in/on chat rooms or bulletin boards unless otherwise agreed by PE in writing.

Affiliate at all times has sole responsibility for the development, operation, maintenance of, and distribution of all content on or linked to, your Media.

Affiliate must comply with all (i) obligations, requirements, and restrictions under this Agreement and (ii) applicable laws, regulations, and rules controlling your business, your Media or your use of the Creatives, and (iii) the terms, conditions, guidelines and policies of any third party services used by Affiliate in connection with the Affiliate Program, including but not limited to, email providers, video services, social networking services and advertising networks.

Pop-ups/unders used for the Affiliate Program shall be clearly identified as Affiliate served in the title bar of the window.

If Affiliate uses any client-side ad serving software in connection with the PE Affiliate Program, such software shall only have been installed on an end-user's computer if, prior to the installation, the function of the software is clearly disclosed to end-users, the installation is pursuant to an affirmatively accepted and plain-English end user license agreement ("EULA"), and the software be easily removed according to generally accepted methods without out any functionality or code remaining.

## 11. Term and Termination

This Agreement shall commence on the date PE notifies you of its approval of your Affiliate Program application and shall continue thereafter until terminated as provided herein.

Your termination is effective upon notifying PE in writing. You should remove all Creatives from your Media, and delete all copies of the Creatives. Your license to use the Creatives and other rights terminates upon termination of this agreement.

PE may terminate this Agreement in full ("Termination"), or in part (i.e. solely with respect to your participation as an Affiliate in one or more Programs or Offers)

("Termination-in-Part") at any time and for any reason which we deem appropriate with or without prior notice to you by disabling any Affiliate-specific aspects of the Creatives, Affiliate-specific tracking devices, links, cookies, pixels, or the like, blocking your Affiliate access to a Program Web Site or Creatives for such Program, or by providing you with written notice. For the sake of clarity, PE's Termination of this Agreement ends your Affiliate status for all Programs and Offers. Termination-in-Part and/or refusal to include you as an affiliate for any specific Programs or Offers does not automatically terminate this Agreement with respect to other Programs or Offers. Termination-in-Part of your status as an Affiliate for one or more Programs or Offers will only impact your rights with respect to the Program(s) and/or Offer(s) you are not eligible to be an Affiliate for.

Upon Termination of your Affiliate status for any reason, you will immediately cease all use of Creatives, and all PE intellectual property, and will delete all copies of any Creatives and any materials which embody Confidential Information without retaining a copy. You must cease representing yourself as a PE Affiliate for such one or more Offers. Upon Termination-in-Part, the foregoing provisions apply only with respect to the Programs or Offers for which your Affiliate status has been terminated.

Affiliate's rights to validly accrued payments, causes of action and any provisions, which by their terms are intended to survive termination, shall survive Termination or Termination-in-Part.

## 12. Remedies for Material Breaches

In addition to any other rights and remedies available under this Agreement PE reserves the right to disregard any actions obtained through Affiliate's efforts and to deny, withhold, and/or freeze any unpaid Commissions Due, and/or charge back any and all amounts paid to your account if (i) PE determines that you have violated this Agreement in manner that constitutes a material breach including by unfairly gaining an advantage over other affiliates, or by misleading or confusing or potentially misleading or confusing any customer or potential customer with respect to any Program or Offer; (ii) PE receives any complaints about your participation in the Affiliate Program which PE reasonably believes to violate this Agreement in a way that constitutes a material breach or which unfairly provided an advantage to you, or resulted in payments hereunder that are contrary to the terms and conditions herein, or that are specific to any Program or Offer; or (iii) any payments made to you hereunder are later determined to have been the result of advertising or actions that did not meet the requirements set forth in this Agreement or on the Affiliate Program or Offer.

Such withholding or freezing of Commissions Due, or charge backs for payments made, may be without regard as to whether or not such Commissions were earned directly or indirectly as a result of such breach. In the event of a material breach of this Agreement, PE reserves the right to disclose your identity and contact information to appropriate law enforcement or regulatory authorities it deems useful, or any third party that has been or claims to have been damaged by your actions.

## Anti-Spam Policy

Affiliate must strictly comply with the federal CAN-SPAM Act of 2003 (the "Act"). All emails sent in connection with the Affiliate Program must include a compliant and functioning opt-out link. PE reserves the right to pre-approve all email communications with respect to the Programs or Offers. Affiliate may at any time request pre-approval of a mailing piece. From time to time, PE may request, and you agree to promptly provide a copy of the final version of any email(s) before sending same to a third parties. Upon receipt, PE will in a reasonable time review the email(s) and notify you of its approval or rejection. Upon receiving written approval of your email from PE the email may be transmitted to third parties.

You understand and agree not to rely upon PE's approval of your email for compliance with the CAN SPAM Act, or assert any claim that you are in compliance with the Act based upon PE's approval of your email. It is and remain solely your obligation to ensure that each email you send as an Affiliate complies with the requirements of the Act.

## 14. Fraud, Fraudulent, Misleading, or Confusing Practices

Affiliates are expressly prohibited from using any persons, means, devices or arrangements to commit actual fraud, violate any applicable law, interfere with other affiliates or falsify information in connection with referrals through the Creatives or the generation of earned commissions, or overstep or exceed your rights in any way as an Affiliate. Also prohibited are fraudulent practices, misleading tactics, or tactics intended to or causing confusion. The forgoing prohibitions include, but are not limited to, using automation to distort results or appearances including clicks (e.g., automated means to increase the number of clicks, or completion of any required information) with or without the use of the Creatives, using spyware, malware, using steal-ware, cookie-stuffing, and other deceptive acts, and any form of click-fraud. PE shall make all determinations about fraud, fraudulent activity, and misleading or confusing practices and tactics in its sole discretion and such decision shall be final.

## 15. Indemnification

Affiliate hereby agrees to indemnify, defend and hold harmless PE and its subsidiaries, affiliates, partners and licensors, directors, officers, employees, owners and agents against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs, and expenses (including reasonable attorneys' fees and costs) arising from, based on, or in connection with (i) breach of this Agreement by Affiliate, including breach of any representation, warranty, covenant, restriction or obligation made by Affiliate herein; (ii) any misuse by Affiliate, or by a party under the reasonable control of Affiliate or obtaining access through Affiliate, of the Creatives, Programs, Offers, or PE's intellectual property; (iii) any claim related to Affiliate's Media, including but not limited to, the content contained on such Media (except for the Creatives); and (iv) any misuse or breach of the covenants of Section 5 herein, resulting directly or indirectly through an act or omission by Affiliate with respect to the Confidential Information.

PE hereby agrees to indemnify, defend and hold harmless Affiliate and its subsidiaries, affiliates, partners, and their respective directors, officers, employees, owners and agents against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs, and expenses (including reasonable attorneys' fees and costs) based solely on a claim that PE is not authorized to provide you with the Creatives, or that your use of the Creatives violates a third party's rights.

## 16. Modifications

Any modification to this Agreement is required to be in a writing signed by the parties except as expressly provided herein.

PE shall have the right to modify the terms and conditions of this Agreement at any time by providing Affiliate with notification of the proposed changes by email at Affiliate's email address, provided such changes do not alter PE's obligation to Affiliate with respect to any past financial obligation including but not limited to calculation of or payment of Commissions Due. Any such changes will become effective ten (10) business days after such notice.

If the proposed modifications are unacceptable to you, you may terminate this Agreement without penalty within the ten (10) business day period after a change notice has been sent. Continued participation in the Affiliate Program thereafter will constitute your acceptance of such change.

PE may change, suspend or discontinue any aspect of an Offer or Link or remove, alter, or modify any tags, text, graphic or banner ad in connection with a Link. Affiliate

agrees to promptly implement any request from PE to remove, alter or modify any Link, graphic or banner ad that is being used by Affiliate as part of the Affiliate Program.

## 17. Disclaimers

THE AFFILIATE PROGRAM AND CREATIVES, AND THE PRODUCTS AND SERVICES PROVIDED IN CONNECTION THEREWITH, ARE PROVIDED TO AFFILIATE "AS IS".

EXCEPT AS EXPRESSLY SET FORTH HEREIN, PE EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT ALLOWED BY LAW, ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE.

PE DOES NOT WARRANT THAT THE AFFILIATE PROGRAM OR CREATIVES WILL MEET AFFILIATE'S SPECIFIC REQUIREMENTS OR THAT THE OPERATION OF THE AFFILIATE PROGRAM OR CREATIVES WILL BE COMPLETELY ERROR-FREE OR UNINTERRUPTED.

PE EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY ACT OR OMISSION OF ANY THIRD PARTY PROVIDER NOT UNDER THE CONTROL OF PE, AND THEIR PRODUCTS OR SERVICES.

AFFILIATE UNDERSTANDS AND AGREES THAT PE DOES NOT GUARANTEE THAT AFFILIATE WILL EARN ANY SPECIFIC AMOUNT OF COMMISSIONS AND ATTESTS THAT NO REPRESENTATIONS OR CLAIMS WITH RESPECT TO EARNING HAVE BEEN MADE.

## 18. Limitation of Liability; Force Majeure

IN NO EVENT WILL PE BE LIABLE UNDER ANY THEORY OF LAW FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF BUSINESS OPPORTUNITY, EVEN IF SUCH DAMAGES ARE FORESEEABLE, AND WHETHER OR NOT PE HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

IN NO EVENT SHALL PE BE LIABLE FOR ANY FORCE MAJEUR INCLUDING BUT NOT LIMITED TO ANY UNEXPECTED DELAYS OR UNAVAILABILITY OR

INOPERABILITY OF THE CREATIVES INCLUDING AFFILIATE SPECIFIC LINKS OR OTHER TRACKING MEANS, PROGRAM WEB SITES, TECHNICAL MALFUNCTION, COMPUTER ERROR, CORRUPTION OR LOSS OF INFORMATION, OR OTHER INJURY, OR DAMAGE OF ANY KIND WHETHER DUE TO WEATHER, POWER OUTAGES, LABOR DISPUTES, INTERNET SERVICE DISRUPTIONS OF ANY TYPE, EQUIPMENT FAILURE, BUSINESS FAILURE OR BANKRUPTCY OR THE LIKE OF A SERVICE PROVIDER OR VENDOR, CIVIL UNREST, TERRORISM OR ACTS OF WAR, ACTS OF GOD, OR OTHER DISRUPTIONS OF ANY KIND BEYOND THE REASONABLE CONTROL OF PE OR WHICH RENDERS PES PROVISION OF SERVICES OR COMPLETION OF ANY OTHER OBLIGATION HEREUNDER COMMERCIALY IMPRACTICAL.

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT PE'S CUMULATIVE LIABILITY TO AFFILIATE, FROM ALL CAUSES OF ACTION UNDER ANY THEORIES OF LIABILITY, IS LIMITED TO AND WILL NOT EXCEED THE AMOUNTS PAID TO AFFILIATE BY PE IN COMMISSIONS DURING THE SIX (6) MONTHS IMMEDIATELY PRIOR TO SUCH CLAIM.

#### 19. Independent Investigation

You acknowledge that you have read this Agreement and agree to all its terms and conditions. You have independently evaluated the desirability of participating as an Affiliate with PE and for each Program or Offer. You affirmatively state that you have not and are not relying on any representation, guarantee or statement other than as set forth in this Agreement or on the Affiliate Program.

#### 20. Governing Law & Miscellaneous

This Agreement contains the entire agreement between PE and Affiliate with respect to the subject matter hereof, and supersedes all prior and/or contemporaneous agreements or understandings, written or oral.

Affiliate shall be responsible for the payment of all attorneys' fees and expenses incurred by PE to enforce the terms of this Agreement.

Affiliate may not assign all or any part of this Agreement without PE's prior written consent. PE may assign it rights and/or obligation under this Agreement at any time without notice to Affiliate. This Agreement will be binding on and will inure to the benefit of the legal representatives, successors and valid assigns of the parties hereto.

The provisions of Sections 1, 5, 8, 11, 15, 17, and 18, and any accrued payment obligations under Section 3, and subject to the provisions of Sections 4 shall survive the termination of this Agreement.

Except as set forth in the "Modifications" section above, this Agreement may not be modified without the prior written consent of both parties.

If any provision of this Agreement is held to be void, invalid, or inoperative, the remaining provisions of this Agreement shall continue in effect and the invalid portion of any provision shall be deemed modified to the least degree necessary to remedy such invalidity while retaining the original intent of the parties.

Each party to this Agreement is an independent contractor in relation to the other party with respect to all matters arising under this Agreement. Nothing herein shall be deemed to establish a partnership, joint venture, association or employment relationship between the parties.

No waiver of any default or breach shall be deemed a continuing waiver or a waiver of any other breach or default. No course of dealing nor any delay in exercising any rights hereunder shall operate as a waiver of any such rights.

This Agreement shall be governed by the laws of **Nevada** without consideration of any conflict of laws provisions. Affiliate hereby consents to personal jurisdiction in court of the **State of Nevada, in the County of Las Vegas**, which shall be the sole jurisdiction for resolving any disputes hereunder notwithstanding any claims regarding lack of personal jurisdiction or inconvenience of the forum, which are hereby waived.

Except to the extent prohibited by law, you agree that all disputes between You and PE regarding this EULA shall be resolved solely by confidential binding arbitration conducted in accordance with the American Arbitration Association's (or comparable independent arbitration organization) commercial arbitration rules. All arbitration shall be held in Las Vegas, Nevada, USA, unless otherwise agreed in a signed writing. Each party shall bear one half of the arbitration fees and costs incurred, and each party is responsible for its own lawyer fees, unless the arbitrator(s) agree that the case was without reasonable basis in law or fact, in which case costs and attorney's fees may be awarded to the prevailing party. All your claims must be arbitrated on an individual complainant basis, and cannot be consolidated in any arbitration with any claim or complaint of any other party or parties (including other affiliates), except as agreed upon in a writing signed by PE.

Notwithstanding the foregoing paragraph, disputes over the indemnification clause of Section 15, and any violations of paragraph 5 hereof may be adjudicated in a court in Las Vegas, Nevada.