

This agreement contains disclaimers of warranties, limitations on liability, releases, a class-action waiver, and the requirement to mediate and arbitrate all claims that may arise under this agreement. These provisions are an essential basis of this agreement.

This is a legally binding agreement between you and Easy Online Solutions, Ltd. You must be at least 18-years old and have reached the age of majority and legal consent in the jurisdiction in which you reside to agree to this agreement. By clicking on the words "I agree," "Submit," or similar syntax, you are electronically signing this agreement, and thus agree to be bound by and acknowledge your complete acceptance of the terms of this agreement. If you do not agree to this agreement or do not meet the age requirements, you must not register.

**MojoHost.com
Affiliate Marketing Agreement**

Last Updated: June 17, 2020

This affiliate marketing agreement is between **EASY ONLINE SOLUTIONS, LTD.** d/b/a MOJOHOST ("**Company**"), and you, the individual or entity signing up to become an affiliate ("**Affiliate**").

The Company has developed an affiliate marketing program ("**Program**") for the website located at www.mojohost.com ("**Program Site**") that allows participating affiliates to earn referral fees in connection with their referral of customers to the Program Site to buy hosting and other related services ("**Services**").

The Affiliate wants to participate in the Program through one or more affiliate sites (collectively, "**Affiliate Sites**") to refer to the Company potential sales leads for the Services.

The parties therefore agree as follows:

1. Enrollment in the Program

1.1 Eligibility. The Affiliate must be at least 18-years old and the age of majority (the age at which the Affiliate can legally consent and enter into contracts) in the Affiliate's place of residence to enroll in the Program. If the Affiliate is an entity, all individuals involved in the entity must be at least 18-years old and the age of majority in their place of residence.

1.2 Evaluation of Application. The Company will evaluate the Affiliate's application and will notify the Affiliate of its acceptance or rejection. Among other reasons for rejection, the Company may reject the Affiliate's application if it determines, in its sole discretion, that one or more Affiliate Sites are unsuitable for the Program. Unsuitable Affiliate Sites include those that:

- (a) promote or facilitate the prostitution of another person or otherwise promote escort services;
- (b) promote child pornography;
- (c) promote obscene materials;

- (d) promote violence;
- (e) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;
- (f) create fraudulent ads or make false claims;
- (g) promote illegal activities; or
- (h) violate intellectual property rights.

1.3 **Engagement.** If the Company accepts the Affiliate into the Program, the Affiliate will refer potential customers of the Services to the Company on a nonexclusive basis through the Affiliate Sites or through manual referrals by email to sales@mojohost.com introducing the customer to the Company.

2. Limited License

2.1 **Grant.** The Company hereby grants the Affiliate a revocable, nonexclusive, nontransferable, nonsublicensable, worldwide license to use, reproduce, transmit, publicly display, and publicly perform the materials provided by the Company to the Affiliate (collectively, "**Licensed Materials**") on one or more Affiliate Sites to market, advertise, and promote the Services solely in connection with the Program. This license includes the right to use the Company's service marks, trademarks, trade names, logos, the video content provided by the Company and its partners, and any other Licensed Materials provided by the Company for the Affiliate's use.

2.2 **Limitations.** The following limitations apply to the Affiliate's use of the Licensed Materials:

- (a) **Use Restrictions.** The Affiliate will only use the Licensed Material per this agreement and not for any other purpose. The Affiliate will only download a single copy of the Licensed Material and upload a single copy to the Affiliate Site. The Affiliate will not make any further copies of the Licensed Material. All unauthorized access or duplication of the Licensed Materials is a material breach of this agreement and infringes the Company's trademarks, copyrights, or other rights, including privacy and publicity rights.
- (b) **Other Prohibited Actions.** Unless the Company expressly authorizes in writing, the Affiliate will not:
 - (i) Modify, translate, reverse engineer, decompile, or disassemble the Licensed Materials;
 - (ii) Create derivative works based on the Licensed Materials;
 - (iii) Rent, lease, or transfer any rights in the Licensed Materials;
 - (iv) Remove any proprietary notices or labels on the Licensed Materials; or

(v) Make any other unauthorized use of the Licensed Materials.

(c) **Ownership of Licensed Materials and Intellectual Property.** Except for material in the public domain or licensed to the Company, the Company owns the Licensed Materials, including the Company's service marks, trademarks, trade names, and logos, including MOJOHOST®, MOJOCLOUD®, MOJOCDN®, and THAT'S GOOD MOJO® ("**Company Marks**"). United States law, international treaties, and other laws and regulations protect the Licensed Materials. The Company retains all rights in the Licensed Materials.

2.3 **No License for Other Material.** The Company does not grant a license for any other material published on any other Company website unless it makes that material available to the Affiliate through the Program, and designates it as Licensed Materials.

2.4 **Reservation of Rights.** Except as expressly granted in this agreement, the Company does not grant any other rights to the Affiliate. The Company reserves all rights to select, alter, add, or remove any Licensed Materials used for the Program.

2.5 **Termination or Withdrawal.** On termination of this agreement or the Affiliate's withdrawal from the Program, the Affiliate's license to download and use the Licensed Materials automatically terminates and all rights automatically revert to the Company. At that time, the Affiliate will promptly erase all copies of the Licensed Materials that may reside on any computer system, storage device, server, or website owned, leased, or rented by the Affiliate or otherwise under its control.

3. **Promotional Links.** The Affiliate may receive—or the Company may make available to the Affiliate—banner, button, or text links to the Program Site ("**Promotional Links**"). The Promotional Links may contain logos or identifying marks. The Affiliate's use of the Promotional Links will be subject to this agreement. The Affiliate may display the Promotional Links following its own site design, on condition that the Affiliate does not alter, modify, or expand the Promotional Links in any way without the Company's written consent. The Company may deactivate the Promotional Link at any time and for any reason without notice to the Affiliate, and the Company will not be liable to the Affiliate for any loss or damage arising out of or resulting from the Company's deactivation of the Promotional Link.

4. **Service Lists.** The Affiliate may select one or more of the Company's Services to list on the Affiliate Site. For each selected Service, the Affiliate will display on the Affiliate Site a short description, review, or other reference, on condition that the Affiliate does not include pricing information and that the Affiliate does not make any representations or warranties regarding the Services. The Affiliate will be responsible for the content, style, and placement of those references. The Affiliate will provide a Promotional Link from each Service reference on the Affiliate Site to the Program Site entry. Each link will connect directly to a single item on the Program Site, using the Promotional Link provided by the Company. The Affiliate may add or delete the Company's Services (and related links to the corresponding Program Site entry) on the Affiliate Site at any time without the Company's approval. The Affiliate will promptly make any changes to the Affiliate's references or links to the Company's Services that the Company may request.

5. **Order Processing.** The Company will determine in its sole discretion the prices, terms, and conditions under which the Company offers or sells any Services. The Company will control all

discussions and negotiations regarding any proposed or actual offering or sale of the Services. Nothing in this agreement will obligate the Company to actually offer or sell any Services or consummate any transaction with any customer. The Company may terminate any negotiations or discussions at any time and has the right not to proceed with any sale of Services without any liability or obligation to pay compensation to the Affiliate under section 8 or otherwise. The Company will own all customer information, and the Affiliate will not rent, sell, loan, barter, share, or otherwise transfer or disclose customer information to any third party without the Company's prior written consent. To ensure accurate tracking, reporting, and fee accrual, the Affiliate must ensure that the Promotional Links between the Affiliate Site and the Program Site are properly formatted and functioning.

6. Program Requirements

6.1 **Compliance with Law.** The Affiliate must comply with all applicable laws and regulations.

6.2 **Email Campaigns.** For all email campaigns, the Affiliate must first obtain a "**Suppression List**" from the Company. The Affiliate must filter the Affiliate's email list by removing any entries appearing on the Suppression List and will only send emails to the remaining addresses on the Affiliate's email list. The Company regularly updates the Suppression List. The Affiliate must obtain the updated Suppression List and filter the Affiliate's email list before sending an email containing the Promotional Links. The Company will provide an opt-out method in all Promotional Links, but if any opt-out requests come directly to the Affiliate, the Affiliate must immediately forward them to the Company at privacy@mojohost.com. The Affiliate's emails containing the Promotional Links must not include any content other than the Promotional Links, except as required by law.

(a) The Affiliate's failure to obtain the Suppression List and remove all emails from the database may result in commission withholdings, removal or suspension from the Program, possible legal action, and any other rights or remedies available to the Company under this agreement or otherwise.

(b) The Affiliate must not use the Suppression List for any purpose other than to comply with applicable laws regulating email transmissions. The Affiliate must not send emails containing the Promotional Links or otherwise market the Promotional Links to addresses included in the Suppression List. The Affiliate acknowledges that doing so may result in commission withholdings, removal or suspension from the Program, possible legal action, and any other legal rights or remedies available to the Company under this agreement or otherwise.

6.3 **Prohibited Conduct.** The Affiliate is responsible for all content posted on the Affiliate Sites. The Affiliate must not engage in the following prohibited conduct:

(a) **Illegal or Objectionable Content.** The Affiliate will not disseminate, post on the Affiliate Sites, or provide links to any obscene material, including any material depicting child pornography, incest, scat, defecation, feces, urination, menstruation, genital mutilation, necrophilia, bestiality, sadomasochistic abuse or bondage, actual or simulated rape, sexual violence, actual violence inflicted on individuals by themselves or others, torture, or death. Nor will the Affiliate disseminate, post on the Affiliate Sites, or provide links to any content or

materials of the following nature: warez, distribution of pirated content, prostitution or escort services, human trafficking, sex trafficking, gambling, or controlled substances (including related paraphernalia).

(b) **Spam.** The Affiliate will not disseminate spam in connection with the Program or otherwise promote the Program Site or the Services available on the Program Site to or through any spam lists. The Company imposes a strict, no-spam policy for participants in the Program. What is spamming will evolve as new technologies and methodologies emerge for spammers to find new ways to abuse the Program. Some of the facts that the Company takes into account when determining what is spamming include the following:

- (i) If the Affiliate has violated a U.S. federal or state anti-spamming law, including any part of the CAN-SPAM Act of 2003 ([15 U.S.C. §§ 7701–7713](#)) or any of the federal regulations promulgated under the CAN-SPAM Act ([16 C.F.R. Part 316](#));
- (ii) If the Affiliate has violated another country’s anti-spamming law;
- (iii) If the Affiliate has violated any third-party anti-spamming policy;
- (iv) If the Affiliate has sent unsolicited bulk messages to nonconsenting recipients;
- (v) If the Affiliate has misleading or false information contained in its messages, subject line, or message headers;
- (vi) If the Affiliate uses automated means to collect, transmit, or sell email addresses of others;
- (vii) If the Affiliate uses a third-party website or program to generate and send messages or content automatically;
- (viii) If the primary purpose of the Affiliate’s message is commercial; and
- (ix) The number of spam or abuse complaints that have been lodged against the Affiliate.

No one factor is controlling, and the Company will look to the particular circumstances of each case to determine what is spamming. When in doubt, don’t do it—you spam, you’re out.

(c) **Fraudulent and Deceptive Trade Practices.** The Affiliate will not engage in any fraudulent, deceptive, or unfair transactions or trade practices. The Affiliate will comply with the Federal Trade Commission (FTC) statutes and regulations and all related rules, policies, and advisory opinions in advertising, marketing, and promoting the Program and the Program Site, including the Restore Online Shoppers’ Confidence Act ([15 U.S.C. §§ 8401–8405](#)); Guides Against Deceptive Pricing ([16 C.F.R. Part 233](#)); Guides Against Bait Advertising ([16 C.F.R. Part 238](#));

Guides Concerning Use of the Word “Free” and Similar Representations ([16 C.F.R. Part 251](#)); Guides Concerning Use of Endorsements and Testimonials in Advertising ([16 C.F.R. Part 255](#)); Use of Pre-Notification Negative Option Plans ([16 C.F.R. Part 425](#)); [FTC Policy Statement on Deception](#); [FTC Policy Statement on Advertising Substantiation](#); [FTC Policy Statement on Unfairness](#); and [FTC .com Disclosures: How to Make Effective Disclosures in Digital Advertising](#).

- (d) **Defamation and Related Conduct.** The Affiliate will not publish content on the Affiliate Sites that is defamatory, libelous, threatening, abusive, hateful, derogatory, disparaging, or otherwise harmful to any person or their reputation.
- (e) **Intellectual Property Rights.** The Affiliate will not publish content on the Affiliate Sites that infringes the intellectual property rights or other legal rights of any person, including copyright, patent, trademark, service mark, trade secret, trade dress, right of privacy, right of publicity, moral right, and any other proprietary right.
- (f) **Cybersquatting or Typosquatting.** The Affiliate will not use or register or try to use or register any domain name (including second-level, third-level, fourth-level, fifth-level, and so on), subdomain name, or directory that is identical or confusingly similar to a trademark or service mark in which the Company or another person has intellectual property or other legal rights in, including the Company Marks.
- (g) **Paid Search Advertising Schemes.** The Affiliate will not bid on or purchase any online paid advertising schemes that incorporate or are confusingly similar to the Company’s trademarks, service marks, domain names, or URLs, including the Company Marks. The prohibited advertising schemes include pay-per-click models, sponsored links, search engine keywords, AdWords, or similar advertising schemes.
- (h) **Metatags.** The Affiliate will not use any false, misleading, or infringing metatags tied to the Affiliate Sites. In addition, the Affiliate will not use any metatags that would imply or suggest that underage or illegal content may be found on the Affiliate Sites or the Program Site.
- (i) **Unethical Marketing Practices.** The Affiliate will not try to intercept, direct, redirect, divert, or usurp traffic (including through user-installed software) from, or divert fees from, any other participant in the Program. The Affiliate will not directly or indirectly offer any person any consideration or incentive (including payment of money or granting discounts or other benefits) to go to the Program Site using the Promotional Links on the Affiliate Sites. Nor will the Affiliate require any person to buy Services from the Program Site as a prerequisite to accessing other products or services.
- (j) **Misrepresentation of Relationship.** The Affiliate will not misrepresent the Affiliate’s relationship with the Company or imply that any relationship exists with the Company except as expressly provided in this agreement. For example, the Affiliate will not publish any statement indicating that the Company supports,

endorses, or contributes to the Affiliate Sites except as expressly provided in this agreement.

- (k) **Deceptive Emails.** The Affiliate must not use the Company Marks, the Company name, or the Service names in the “sent from” or “from” line of any emails sent by the Affiliate to market the Program, the Program Site, or the Services available on the Program Site.
- (l) **Unauthorized Access.** The Affiliate’s unauthorized access or duplication of any Licensed Materials or other content that the Affiliate obtains directly or indirectly through its participation in the Program is a material breach of this agreement.
- (m) **Malicious Code, Viruses, Etc.** The Affiliate will not use or offer for download any material that contains a virus, malware, or malicious code, for example, a trojan horse, that has the potential of causing disruption or damage to any computer system, network, or server. The Affiliate will be liable to the Company for all damage caused by any program of this nature.
- (n) **Links to and Content of Others.** The Affiliate will not use the Licensed Materials, the Company Marks, or any other of the Company’s intellectual property to promote or link to any other website. No links to other sites are permitted on pages where the Licensed Materials are used.
- (o) **Use of Unapproved Promotional Materials.** The Affiliate will only use the Licensed Materials provided by the Company unless the Company states otherwise in writing. The Affiliate will not use any other material, whether created by the Affiliate or others, to promote the Program, the Program Site, or the Services unless the Company states otherwise in writing.
- (p) **Abuse of Promotional Links.** The Affiliate will not abuse the Promotional Links, including by using the Promotional Links to buy Services on the Program Site; sharing, posting, or spamming the Promotional Links in any area of the Program Site; and recruiting existing customers to purchase Services via the Promotional Links.

6.4 **Breach of Program Requirements.** The Company may withhold referral fees or terminate this agreement if the Affiliate breaches this section 6.

- 7. **Affiliate’s Duty to Notify.** The Affiliate will promptly notify the Company (a) of all URLs where the Affiliate will use the Licensed Materials or otherwise promote the Program Site; (b) whenever there are inquiries or concerns by any person regarding any questionable activities; or (c) if the Affiliate receives inquiries regarding any of the following: (i) prostitution; (ii) obscenity; (iii) child pornography or depictions of nudity or sexuality by minors; (iv) spam complaints; (v) infringement of intellectual property rights; (vi) deceptive trade or unfair business practices; (vii) misleading search terms; (viii) invasion of publicity or privacy issues; (ix) fraudulent activities, including credit card fraud; and (x) any civil or criminal investigation or subpoena that pertains to the Affiliate unless applicable law prohibits the Affiliate from notifying the Company. The Affiliate’s failure to comply with this section 7 is a material breach of this agreement. The Affiliate will be responsible for any damages the Company incurs based on the Affiliate’s failure to notify the Company as

required by this section 7.

8. Compensation

8.1 **Revenue Share.** The Company will pay the Affiliate a revenue share equal to 8% of the net revenues that the Company earns from each customer referred by the Affiliate for the life of that customer's relationship with the Company. **No compensation will be owed under this agreement for any sale to a customer if the Company had a previous relationship or contact with that customer.**

8.2 Payout Procedure

- (a) **In General.** The Company will make payouts to the Affiliate once a month on condition that the Affiliate satisfies the minimum payout amount. The Company will deduct refunds and chargebacks from the Affiliate's payment before disbursing payouts. If the chargebacks and refunds are greater than the Affiliate's last payout, the Company will withhold payment until the Affiliate's account stops incurring chargebacks and refunds.
- (b) **Payment Method.** The Company will make payments to the account designated by the Affiliate. The Affiliate is responsible for ensuring that the payment information the Affiliate provides to receive payments is accurate. The Company will not be liable for any payments that cannot be transmitted to the Affiliate due to inaccurate payment information or due to any technical or other problems with the Affiliate's chosen payment provider's system. The Company may cancel or change the payout methods available to the Affiliate, the timing of payouts, the minimum earnings required for a payout, and any other payout terms in its own discretion.
- (c) **Payout Currency.** The Company will make payouts in U.S. dollars only.
- (d) **Processing Fees.** The Company is not responsible for any third-party fees charged by banks or financial institutions used to receive payouts. The Company may deduct third-party processing fees from the Affiliate's payout.
- (e) **Taxes.** The Affiliate will pay all taxes attributable to revenues earned under this agreement. On one or more occasions, the Company may request the Affiliate to provide tax information depending on the jurisdiction in which the Affiliate resides or is organized. The Affiliate will promptly comply with any request by the Company for tax information. If the Company requests tax information from the Affiliate and the Affiliate fails to provide it to the Company, the Company may withhold payment from the Affiliate until the Affiliate provides this information or otherwise satisfies the Company that the Affiliate is not a person from whom the Company is required to obtain tax information.
- (f) **Disputes.** If the Affiliate disputes a payment or the calculation of a payout, the Affiliate will notify the Company in writing of the dispute or discrepancy no later than 30 days after the end of the pay period in which the disputed payment occurred. The Affiliate will include in its written notice a detailed statement

describing the nature and amount of the dispute and all supporting evidence. The Affiliate will cooperate fully and in good faith with the Company to promptly address and try to resolve the dispute. If the Affiliate fails to timely notify the Company in writing, the parties will consider the Company's determination final and binding on the Affiliate, and the Affiliate will not dispute the Company's determination.

8.3 Payout Limitations

- (a) The Company will pay the Affiliate for qualified purchases only if its system can track a customer to the Program Site from the time the customer clicks on a Promotional Link to the time of purchase. **The Company will honor manual referrals only if the Affiliate notifies the Company by email to sales@mojohost.com about the manual referral before the customer contacts the Company or otherwise makes a purchase.** The Company will not pay the Affiliate if (i) its system cannot process the Promotional Link; (ii) the customer is an existing customer, known to the Company, or previously purchased Services from the Company; or (iii) if a Promotional Link directs a customer to the Program Site, but that customer leaves the Program Site and returns over 24 hours later without going through the Promotional Link.
- (b) The Company will not pay the Affiliate for any activity that the Company considers fraudulent, including (i) credit card numbers in a negative bin number database, (ii) multiple purchases from a single email address, (iii) multiple purchases with the same credit card number, (iv) purchases from existing customers, (v) sequential names or patterns of names, (vi) many purchases from the Program Site in a short time span, and (vii) multiple attempts to purchase from the same credit card. The Company reserves sole judgment in determining fraud and all determinations will bind the Affiliate. The Company may also deny or withhold revenues for any purchases coming from any practices that breach this agreement. If the Company determines that the Affiliate is engaging in practices that breach this agreement, the Affiliate will not receive any payment and will forfeit all revenues earned.
- (c) The Company may deny or withhold any payment to the Affiliate or terminate the Affiliate's participation in the Program if there has been an abnormal number of chargebacks, refunds, or cancellations of Services from customers referred to the Company through the Affiliate's Promotional Links. The Company will determine what an abnormal number of chargebacks, refunds, or cancellations based on its review of the situation and its experience with other affiliates is. In addition, the Company may also deny or withhold payment to the Affiliate or terminate the Affiliate's participation in the Program due to any other suspicious behavior.

9. **Identification as an Affiliate.** The Company may make available to the Affiliate a small graphic image that identifies the Affiliate Site as a Program participant. The Affiliate must display this logo or the phrase "In association with MojoHost" somewhere on the Affiliate Site.

10. **Responsibility for the Affiliate Sites.** The Affiliate will be solely responsible for developing,

operating, and maintaining the Affiliate Sites and for all materials that appear on the Affiliate Sites. For example, the Affiliate will be solely responsible for:

- 10.1 the technical operation of the Affiliate Sites and all related equipment;
- 10.2 creating and posting Service descriptions on the Affiliate Sites and linking those descriptions to the Program Site;
- 10.3 the accuracy and appropriateness of materials posted on the Affiliate Sites (including all Service-related materials);
- 10.4 ensuring that materials posted on the Affiliate Sites do not violate or infringe on the rights of any third party (including copyrights, trademarks, privacy, or other personal or proprietary rights);
- 10.5 ensuring that materials posted on the Affiliate Sites are not libelous or otherwise illegal; and
- 10.6 ensuring that the Affiliate links to the Program Site in the format specified by the Company.

The Company disclaims all liability for these matters. Further, the Affiliate will indemnify and hold the Company harmless from all claims, damages, and expenses (including attorneys' fees) relating to the development, operation, maintenance, use, and contents of the Affiliate Sites.

11. **Affiliate Site Privacy Requirements.** The Affiliate will conspicuously post a privacy notice/policy on the Affiliate Sites. The Affiliate's privacy notice/policy must describe (1) what personal data the Affiliate collects; (2) the purpose of collection; (3) how the Affiliate uses and shares that personal data; and (4) that other parties (i.e., the Company, ad networks, analytics providers, etc.) may collect personal data about a customer's online activities over time and across different websites when the customer uses the Affiliate Sites or services. The Affiliate's privacy notice must comply with the California Consumer Privacy Act of 2018 (CCPA) and the EU General Data Protection Regulation (GDPR) if the Affiliate solicits customers from the European Economic Area (EEA). The Affiliate's privacy and data security practices must make sure that email, telephone, and other marketing practices, and applicable opt in and opt out policies and procedures, comply with all applicable laws.
12. **Electronic Consent.** The Affiliate will conspicuously post an electronic consent policy to the Affiliate Sites. The Affiliate will obtain consent to provide required disclosures, documents, and information to the referred customers electronically. Any consent obtained from Canadian or EEA residents must comply with applicable law.
13. **Statements of Fact**
 - 13.1 **By the Affiliate.** The Affiliate states that the following facts are accurate and will continue to be accurate during this agreement:
 - (a) If the Affiliate is an individual, the Affiliate is at least 18-years old and has the legal capacity to enter into this agreement. If the Affiliate is an entity, it is duly

organized, validly existing, and in good standing as a legal entity under the laws of its jurisdiction of incorporation, organization, or chartering.

- (b) The Affiliate has the power to enter into this agreement and to perform its obligations under this agreement.
- (c) The Affiliate owns or has the right to operate each Affiliate Site.
- (d) The Affiliate owns or has a license for all content found on each Affiliate Site, including all text, audio, images, and videos displayed on each Affiliate Site.
- (e) The Affiliate has independently evaluated the desirability of participating in the Program.
- (f) The revenue the Affiliate earns through the Program is and will be directed solely to the Affiliate, and the Affiliate is not authorized to transfer the Affiliate's checks to or deposit the Affiliate's checks with any third parties other than bona fide financial institutions.
- (g) The Affiliate is not an individual, organization, or entity listed on The Office of Foreign Assets Control Specially Designated Nationals or Blocked Persons list, as published and updated by the United States Department of Treasury.
- (h) Each Affiliate Site and the content on each Affiliate Site
 - (i) does not infringe the Company's or any other person's intellectual property rights;
 - (ii) does not violate third-party publicity or privacy rights;
 - (iii) does not promote violence, racial intolerance, or illegal activities;
 - (iv) does not promote or facilitate the prostitution of another person or otherwise promote escort services;
 - (v) does not depict bestiality, necrophilia, genital mutilation, sadomasochistic abuse or bondage, defecation, urination, bleeding, enema play, menstruation, rape, extreme violence, torture, incest, or any other obscene material;
 - (vi) does not depict minors in adult or sexual situations or otherwise target persons under 18-years old or the age of majority, whichever is greater;
 - (vii) does not violate any law governing false or deceptive advertising, sweepstakes, gambling, comparative advertising, or trade disparagement;
 - (viii) is free of any "worm," "virus," malware, or other device or code that could impair or injure any person or any person's property;

- (ix) is not otherwise defamatory, vulgar, or obscene; and
- (x) complies with the program requirements set out in section 6.
- (i) The Affiliate is generally familiar with the nature of the Internet and complies with all laws and industry standards.
- (j) The Affiliate's performance under this agreement does not breach any agreement or obligation between the Affiliate and a third party or violate any applicable law.
- (k) The Affiliate's collection and use of personal data does not violate the Affiliate Sites' privacy policy or violate any law that governs the Affiliate's collection and use of personal data, including the CCPA and the GDPR.
- (l) The Affiliate has obtained opt-in consent from any customer whose information the Affiliate transfers to the Company for that customer to be contacted by and marketed to by the Affiliate and third parties.

13.2 **By the Company.** The Company states that the following facts are accurate:

- (a) It is duly organized, validly existing, and in good standing as a corporation.
- (b) It has the power to enter into this agreement and to perform its obligations under this agreement.
- (c) It owns or has the right to operate the Program and the Program Site.
- (d) It owns or has the right to license the Licensed Materials and the Company Marks.

14. **Confidentiality**

14.1 Neither party will use or disclose to any third party the other party's Confidential Information except as necessary for the performance of this agreement or to enforce this agreement. The confidentiality obligations will not restrict either party from disclosing Confidential Information of the other party under a court order from a court of competent jurisdiction, on condition that the party required to make the disclosure gives reasonable advance written notice to the other party so that it may contest the order and if that disclosure is required, only discloses the part of the Confidential Information that its legal counsel advises is legally required.

14.2 "**Confidential Information**" consists of (a) any technical information or plans concerning the Program or any software or other technology of the Company; (b) any financial information of the other party; (c) other information disclosed by one party to the other party that is marked as confidential or should reasonably be assumed to be confidential under the circumstances; and (d) customer personal data. Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault of or breach of the receiving party; (ii) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the receiving party without the use of the disclosing party's Confidential

Information; or (iv) is obtained by the receiving party rightfully from a third party who has no duty of confidentiality to the disclosing party.

15. **Publicity.** The Company may use the Affiliate's trade names, trademarks, service marks, or logos in presentations, marketing materials, affiliate lists, financial reports, website listings of affiliates, or advertisements without advance written approval. The Affiliate may use the Company Marks solely in connection with performing under this agreement so long as the Affiliate complies with this agreement.
16. **Nondisparagement.** During this agreement and for two years after its termination, the Affiliate will not take any action that is intended, or would reasonably be expected, to harm the Company or its reputation or that would reasonably be expected to lead to unwanted or unfavorable publicity to the Company. But nothing will prevent the Affiliate from making any truthful statement in connection with any legal proceeding or investigation by the Company or any government body.
17. **Term and Termination; Survival**
 - 17.1 **Term.** This agreement begins on the Company's acceptance of the Affiliate's Program application and ends when terminated by either party.
 - 17.2 **Termination.** Either party may terminate this agreement for any reason. The Affiliate is only eligible to earn referral fees on sales of qualifying services occurring during the term, and fees earned through the date of termination, which will occur on the giving of notice, will remain payable only if the related orders are not canceled or returned or if payment for those orders is not refunded or charged back. The Company may withhold the Affiliate's final payment for a reasonable time to ensure that the correct amount is paid. The Affiliate will forfeit all referral fees due if the Company terminates the Affiliate from the Program because of the Affiliate's fraudulent activity or for any breach of the Program requirements set out in section 6.
 - 17.3 **Survival.** Any part of this agreement that imposes an obligation after termination will survive the termination, including all disclaimers and limitations of liability.
18. **Independent Investigation.** The Affiliate acknowledges that the Affiliate has read this agreement and agrees to all its terms. The Affiliate understands that the Company may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this agreement or operate websites that are similar to or compete with the Affiliate Sites. The Affiliate has independently evaluated the desirability of participating in the Program and is not relying on any representation, guarantee, or statement other than as stated in this agreement.
19. **Warranty Disclaimers**
 - 19.1 The Company is not making any guarantee of profitability or about the amount of money the Affiliate will earn through the Program. The Affiliate acknowledges that past affiliate earnings do not guarantee or suggest similar future earnings.
 - 19.2 The Company is not making any warranty—express, implied, oral, or otherwise—that

- (a) the Program, the Program Site, or the Licensed Materials will be timely, uninterrupted, or error-free (whether as a result of technical failure, acts or omissions of third parties, or other causes) or will operate in combination with any other hardware, software, system, or data;
 - (b) the Program, the Program Site, the Licensed Materials, the Company Marks, or the Services sold through the Program will be suitable or otherwise meet the Affiliate's requirements or expectations;
 - (c) the Program, the Program Site, or the Licensed Materials will be accurate or reliable;
 - (d) errors or defects in the Program, the Program Site, or the Licensed Materials will be corrected; or
 - (e) the servers that make the Program, the Program Site, and the Licensed Materials available are free of viruses and other harmful components.
- 19.3 The Company offers the Program, the Program Site, the Licensed Materials, the Company Marks, and the Services sold through the Program "as is." The Company is not making any warranty, either express or implied, including the implied warranty of merchantability, fitness for a particular purpose, and noninfringement for the Program, the Program Site, the Licensed Materials, the Company Marks, or the Services sold through the Program. No advice or information, whether oral or written, obtained from the Company or elsewhere, will create any warranty not expressly stated in this agreement.

20. **Limit of Liability**

- 20.1 The Program, the Program Site, and the Licensed Materials may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. The Company is not liable for any delays, delivery failures, or other damage resulting from those problems.
- 20.2 The Company will not be liable to the Affiliate for any of the following:
- (a) Errors, mistakes, or inaccuracies in the Program, the Program Site, or the Licensed Materials;
 - (b) Content or conduct that is infringing, inaccurate, obscene, indecent, offensive, threatening, harassing, defamatory, libelous, abusive, invasive of privacy, or illegal;
 - (c) Unauthorized access to or use of the Company's servers and any personal or financial information stored in them, including unauthorized access or changes to the Affiliate's account, transmissions, or data;
 - (d) Interruption or cessation of transmission to or from the Program or the Program Site;

- (e) Denial-of-service attack (DoS) or distributed denial-of-service attack (DDoS);
- (f) Bugs, viruses, trojan horses, malware, ransomware, or other disabling code that may be transmitted to or through the Program, the Program Site, or the Licensed Materials by any person or that might infect the Affiliate's computer or affect the Affiliate's access to or use of the Program, the Program Site, or the Licensed Materials, or the Affiliate's other services, hardware, or software;
- (g) Incompatibility between the Program, the Program Site, or the Licensed Materials and the Affiliate's other services, hardware, or software;
- (h) Delays or failures the Affiliate might experience in starting, conducting, or completing any transmissions to or transactions through or with the Program, the Program Site, or the Licensed Materials; or
- (i) Loss or damage incurred because of the deactivation of any Promotional Link or use of any content posted, emailed, sent, or otherwise made available through the Program or the Program Site.

20.3 The Company will not be liable to the Affiliate for breach-of-contract damages that the Company could not reasonably have foreseen on entry into this agreement. The Company also will not be liable to the Affiliate—regardless of theory of liability and even if the Affiliate advised the Company of the possibility of these damages—for any damages for: (a) loss of use; (b) loss of services; (c) loss of profits; (d) loss of revenue; (e) loss of goodwill; (f) loss of contracts; (g) loss of data; (h) loss of privacy; (i) loss of business or opportunity; or (j) cost of obtaining substitute goods or services related to the Program, the Program Site, the Licensed Materials, or the Company Marks.

20.4 Except as stated in this agreement, neither party will be liable to the other party for indirect, incidental, special, statutory, exemplary, or punitive damages arising from or relating to this agreement, regardless of theory of liability and even if that party knew or should have known of the possibility of these damages, including loss of revenue or anticipated profits or lost business.

20.5 The Company's total cumulative liability to the Affiliate for any breach of this agreement will not exceed the greater of the total amount owed to the Affiliate under this agreement and US\$250.

21. **Scope of Disclaimers and Limitations.** The disclaimers and limits stated in sections 19 and 20 apply to the greatest extent allowed by law, but no more. The Company does not intend to deprive the Affiliate of any mandatory protections provided to the Affiliate by law. Because some jurisdictions may prohibit the disclaimer of some warranties, the limitation of some damages or other matters, one or more of the disclaimers or limitations might not apply to the Affiliate.

22. **Indemnification**

22.1 **In General.** The Affiliate will pay the Company for any loss of the Company's that is caused by the Affiliate's (a) use of the Program, the Program Site, the Licensed Materials, or the Company Marks; (b) failure to pay taxes in connection with referral fees earned under

this agreement; (c) dispute with any customer, affiliate, or any other person; (d) breach of this agreement, including any statement of fact in section 13.1; (e) infringement of any person's intellectual property rights, including copyrights and trademarks; (f) violation of any applicable law; (g) fraudulent or deceptive conduct or trade practices, including making false claims or fraudulent ads; or (h) tortious or criminal acts or omissions. But the Affiliate is not required to pay if the loss was caused by the Company's intentional misconduct.

22.2 Definitions

- (a) **"Loss"** means an amount that the Company is legally responsible for or pays in any form. Amounts include, for example, a judgment, a settlement, a fine, damages, injunctive relief, staff compensation, a decrease in property value, and expenses for defending against a claim for a loss (including fees for legal counsel, expert witnesses, and other advisers). A loss can be tangible or intangible; can arise from bodily injury, property damage, or other causes; can be based on tort, breach of contract, or any other theory of recovery; and includes incidental, direct, and consequential damages.
- (b) A loss is **"caused by"** an event if the loss would not have occurred without the event, even if the event is not a proximate cause of the loss.

22.3 **Company's Duty to Notify.** The Company will notify the Affiliate before the 15th business day after the Company knows or should reasonably have known of a claim for a loss that the Affiliate might be obligated to pay. The Company's failure to give the Affiliate timely notice does not terminate the Affiliate's obligation, except to the extent that the failure prejudices the Affiliate's ability to defend the claim or mitigate losses.

22.4 Legal Defense of a Claim

- (a) **Company's Control.** The Company has control over defending a claim for a loss (including settling it) unless the Company directs the Affiliate to control the defense.
- (b) **Direction to Control.** If the Company directs the Affiliate to control the defense, each of the following applies:
 - (i) The Affiliate may choose and retain legal counsel.
 - (ii) The Company may retain its own legal counsel at its expense.
 - (iii) The Affiliate will not settle any litigation without the Company's written consent if the settlement (1) imposes a penalty or limitation on the Company, (2) admits the Company's fault, or (3) does not fully release the Company from liability.
- (c) **Good Faith.** The Company and the Affiliate will cooperate with each other in good faith on a claim.

22.5 **No Exclusivity.** The Company's rights under this section 22 do not affect other rights that the Company might have.

23. **Dispute Resolution**

23.1 **Litigation Election.** Either party may elect to litigate the following type of case or controversy: (a) an action seeking injunctive relief; (b) an action seeking to enforce or protect intellectual property rights; (c) a dispute related to claims subject to indemnification under section 22; or (d) a suit to compel compliance with this dispute resolution provision.

23.2 **Arbitration.** The parties will settle any dispute arising out of or relating to this agreement, or the breach of it, by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The arbitrator, and not any federal, state, or local court or agency, will have exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of this agreement, including any claim that all or any part of this agreement is void or voidable. A single arbitrator will preside over the arbitration. The arbitrator may grant whatever relief would be available in a court under law or in equity, except that the arbitrator will not award punitive or exemplary damages, or damages otherwise limited or excluded in this agreement. The arbitrator will issue a final award on all issues submitted to the arbitrator, which award must set out findings of fact and conclusions of law. The arbitrator's award will bind the parties and may be entered as a judgment in any court of competent jurisdiction. Arbitration will take place in Oakland County, Michigan. The parties will bear equally the costs of arbitration, including the fees and expenses of the arbitrator, and each party will bear the costs associated with its case, except the arbitrator will award costs and fees to the Prevailing Party in accordance with section 23.5. Unless required by law, neither a party nor an arbitrator will disclose the existence, content, or results of any arbitration under this agreement without the advance written consent of both parties.

23.3 **Injunctive Relief.** The Affiliate acknowledges that breach by it of its obligations under this agreement could cause irreparable harm for which damages would be an inadequate remedy. If any breach occurs or is threatened, the Company may seek an injunction or a restraining order, in each case without posting a bond or other security.

23.4 **Jurisdiction and Venue.** If a party brings any proceeding authorized under section 23.1, that party will bring that proceeding only in the United States District Court for the Eastern District of Michigan or in any state court of competent jurisdiction in Michigan, and each party hereby submits to the exclusive jurisdiction and venue of those courts for purposes of any proceeding. Each party waives any claim that any proceeding brought under section 23.4 has been brought in an inconvenient forum or that the venue of that proceeding is improper.

23.5 **Recovery of Expenses.** In any proceedings between the parties arising out of this agreement or relating to the subject matter of this agreement, the Prevailing Party will be entitled to recover from the other party, in addition to any other relief awarded, all expenses that the Prevailing Party incurs in those proceedings, including legal fees and expenses. For purposes of this section 23.5, "**Prevailing Party**" means, for any

proceedings, the party in whose favor an award is rendered, except that if in those proceedings the award finds in favor of one party on one or more claims or counterclaims and in favor of the other party on one or more other claims or counterclaims, neither party will be the Prevailing Party. If any proceedings are voluntarily dismissed or are dismissed as part of settlement of that dispute, neither party will be the Prevailing Party in those proceedings.

- 23.6 **Jury Trial Waiver.** Each party hereby waives its right to a trial by jury in any proceedings arising out of or related to the subject matter of this agreement. Either party may enforce this waiver up to and including the first day of trial.
- 23.7 **Class Action Waiver.** The parties will conduct all proceedings to resolve a dispute in any forum on an individual basis only. Neither the Affiliate nor the Company will seek to have any dispute heard as a class action or participate in any other proceeding in which either party acts or proposes to act in a representative capacity. The parties will not combine any proceeding with another without the advanced written consent of all parties to all affected proceedings.
- 23.8 **Limited Time to Bring Claims.** A party will not bring a claim arising out of, or related to the subject matter of, this agreement more than one year after the cause of action first arose. Any claim brought after one year is barred.

24. **General**

- 24.1 **Entire Agreement.** This agreement and any other agreement between the Affiliate and the Company or its authorized agent regarding the Program or the Program Site constitute the entire agreement of the parties concerning the subject matter and supersedes all earlier written or oral discussions, negotiations, proposals, undertakings, understandings, and agreements between the parties concerning the subject matter.
- 24.2 **Amendment.** The Company may change this agreement on one or more occasions, except that changes will not apply to ongoing disputes or disputes arising out of events occurring before the posted changes. The Company will notify the Affiliate by email of any changes to this agreement. Changes will become effective when posted. It is the Affiliate's responsibility to check periodically for changes to this agreement. If the Affiliate continues to participate in the Program after any change, the Company will consider the Affiliate's continued participation as acceptance of the change unless the Affiliate notifies the Company in writing of the Affiliate's disagreement and the reasons for the Affiliate's disagreement no later than 15 days after the change. If the Company is unable to resolve the Affiliate's disagreement with the changes, the Affiliate's sole remedy is to terminate this agreement.
- 24.3 **Assignment and Delegation.** The Affiliate will not assign any of its rights or delegate any performance under this agreement, except with the Company's advance written consent. The Company may assign its rights or delegate its performances under this agreement without the Affiliate's consent. Any purported assignment of rights or delegation of performance in breach of this section 24.3 is void.
- 24.4 **Waiver.** If the Company fails to exercise or enforce any right or provision of this

agreement, it will not constitute a waiver of that right or provision. Any waiver of any provision of this agreement will be effective only if in writing and signed by the relevant party.

- 24.5 **Severability.** If any part of this agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.
- 24.6 **Notices.** All notices and other communications between the parties will be in writing. The Affiliate may send notice to the Company by email to legal@mojohost.com unless a specific email address is listed for giving notice. The Company may notify the Affiliate by email using email address identified in the Affiliate's account. The Company will consider an email notice received by it only when the Company's server sends a return message to the Affiliate acknowledging receipt. The Company will consider notices sent to the Affiliate by email received when the Company's email service shows transmission to the Affiliate's email address. All other notices will be effective on receipt by the party to which notice is given, or on the fifth day after mailing, whichever occurs first.
- 24.7 **Governing Law.** Michigan law, without giving effect to its conflicts of law principles, governs all matters arising out of or relating to this agreement, including its validity, interpretation, construction, performance, and enforcement.
- 24.8 **Force Majeure**
- (a) If a Force Majeure Event prevents a party from complying with any one or more obligations under this agreement, that inability will not constitute a breach if (1) that party uses reasonable efforts to perform those obligations, (2) that party's inability to perform those obligations is not due to its failure to (A) take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or (B) develop and keep a reasonable contingency plan to respond to events or circumstances of the same type as that Force Majeure Event, and (3) that party complies with its obligations under section 24.8(c).
 - (b) For purposes of this agreement, "**Force Majeure Event**" means, for any party, any event or circumstance, whether or not foreseeable, that was not caused by that party (other than a strike or other labor unrest that affects only that party, an increase in prices or other change in general economic conditions, a change in law, or an event or circumstances that results in that party's not having sufficient funds to comply with an obligation to pay money) and any consequences of that event or circumstance.
 - (c) If a Force Majeure Event occurs, the noncomplying party will promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last. From then on, the noncomplying party will update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party will use reasonable efforts to limit damages to the other party and to resume its performance under this agreement.
- 24.9 **No Third-Party Beneficiaries.** This agreement does not, and the parties do not intend it

to, confer any rights or remedies on any person other than the parties to this agreement.

- 24.10 **Relationship of the Parties.** The parties intend that their relationship will be that of independent contractors and not business partners. This agreement does not, and the parties do not intend it to, create a partnership, joint venture, agency, franchise, or employment relationship between the parties and the parties expressly disclaim the existence of any of these relationships between them. Neither of the parties is the agent for the other, and neither party has the right to bind the other on any agreement with a third party.
- 24.11 **Successors and Assigns.** This agreement binds and inures to the benefit of the parties and their respective successors and assigns. This section 24.11 does not address, directly or indirectly, whether a party may assign its rights or delegate its obligations under this agreement. Section 24.3 addresses these matters.
- 24.12 **Electronic Signatures.** The Affiliate acknowledges that any affirmation, assent, or agreement the Affiliate sends in response to a prompt binds the Affiliate. The Affiliate further acknowledges that when the Affiliate clicks on an “I agree,” “I consent,” or other similarly worded “button” or entry field using a finger (for touch enabled devices), mouse, keystroke, or other device, this action is the legal equivalent of the Affiliate’s handwritten signature and binds the Affiliate in the same way.
- 24.13 **Voluntary Agreement.** The Affiliate has entered this agreement voluntarily and for valid reasons. The Affiliate acknowledges that the Affiliate (i) has carefully read this agreement, (ii) discussed it with the Affiliate’s attorneys or other advisors, (iii) understood all the terms, and (iv) will comply with it. The Affiliate has relied on the advice of the Affiliate’s attorneys or other advisors about the terms of this agreement and waives any claim that the terms should be construed against the drafter.
- 24.14 **No Reliance.** The Affiliate acknowledges that in electronically signing this agreement, that the Affiliate does not rely and has not relied on any statement by the Company or its agents, except those statements contained in this agreement.
- 24.15 **Permission to Send Emails to the Affiliate.** The Affiliate grants the Company permission to email the Affiliate notices, advertisements, and other communications. The Affiliate’s permission will continue until the Affiliate asks the Company to remove the Affiliate from the Company’s email list.
- 24.16 **Feedback.** The Company encourages the Affiliate to give feedback about the Company, the Program, the Program Site, the Licensed Materials, or the Services. But the Company will not treat as confidential any suggestion or idea the Affiliate gives, and nothing in this agreement will restrict the Company’s right to use, profit from, disclose, publish, or otherwise exploit any feedback, without payment to the Affiliate.