

## THE MEDSAFE AFFILIATE AGREEMENT

This Agreement contains the terms and conditions that apply to your participation as an affiliate member of MedSafe affiliate program at [www.Medsafeglobal.com](http://www.Medsafeglobal.com), which is a web site operated by MedSafe, Inc. This Agreement is effective on the date you accept the terms and conditions set forth herein from initial sign up date. As used in this Agreement, "we", "our", and "us" refers to Merchant and "you" and "yours" refers to the "Affiliate".

### GENERAL TERMS AND CONDITIONS

BY APPLYING TO THE MERCHANT AFFILIATE PROGRAM AND RECEIVING AND USING LINKS TO THE MERCHANT WEB SITE, AFFILIATE IS CONFIRMING THAT IT HAS READ THIS AGREEMENT AND THAT AFFILIATE AGREES TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. IF AFFILIATE DOES NOT AGREE WITH ANY OF THE TERMS AND CONDITIONS SET FORTH HEREIN, DO NOT JOIN THIS PROGRAM.

- 1. True and Complete Information.** Affiliate represents and warrants that all information provided by Affiliate in connection with becoming an affiliate of Merchant is true and complete. If Merchant determines that any information provided by Affiliate is not true and complete, Merchant may immediately terminate Affiliate's participation under this Agreement.
- 2. Suitability of Affiliate Web Site(s).** Affiliate represents and warrants that neither its web site(s) ("Affiliate Web Site") nor any content or technology thereon (a) infringes on any third party's intellectual property, publicity, or privacy rights; (b) violates any law or regulation; (c) is threatening, defamatory, obscene, harmful to minors, or contains nudity or pornography; (d) contains any viruses, Trojan horses, worms, time bombs, cancelbots, or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or personal information; (e) is materially false, inaccurate, or misleading; (f) promotes violence; (g) promotes discrimination based upon race, sex, religion, nationality, disability, sexual orientation or age; (h) promotes the use of bulk email or spam; (i) promotes the use of pyramid schemes; or (j) promotes illegal gambling, sports betting or touting.
- 3. Right to Use Merchant Content.** For purposes of this Agreement "Merchant Content" means any and all trademarks, service marks, trade names, logos and other content which Merchant makes available to Affiliate in connection with this Program. Such Merchant Content may be, directly or indirectly, owned by Merchant or licensed to Merchant. Subject to the terms and conditions herein, Merchant hereby grants to Affiliate, during the term hereof, a non-exclusive, non-transferable, revocable, non-sub licensable right to use and display the Merchant Content that Merchant may make available to Affiliate from time to time in connection with this Program.
- 4. Content Usage Restrictions.** Affiliate represents and warrants that it shall not, except as specifically provided for in this Agreement (i) copy or display any Merchant Content; (ii) modify, adapt, translate or create derivative works based on the Merchant Content; (iii) remove, erase, or tamper with any copyright or other proprietary notices in any copy of any of the Merchant Content; (iv) sell, market, license, sublicense, distribute, disclose or otherwise grant to any person any right or interest in the Merchant Content; or (v) take any action which may cause deception, confusion or otherwise dilutes the quality of the Merchant Content or the goodwill associated therewith. Upon termination of this Agreement, for any reason, Affiliate shall immediately cease using, displaying or otherwise maintaining any interest in the Merchant Content.
- 5. Property Ownership Rights.** Affiliate agrees and acknowledges that Merchant retains all rights, title and interest in and to all property rights embodied in or associated with the Merchant Content. Affiliate represents and warrants that Affiliate will not take any action challenging or otherwise inconsistent with Merchant's ownership of the Merchant Content and any benefits accruing from the use of such Merchant

Content will automatically vest in the Merchant.

**6. Operation and Maintenance of the Merchant Web Site.** Affiliate acknowledges and agrees that Merchant will accept or reject, in its sole discretion, all orders by customers for merchandise placed on or through the Merchant Web Site. Affiliate further acknowledges and agrees that (i) Affiliate does not have any authority to make or accept any offer or commitment on behalf of Merchant, (ii) Merchant cannot, and does not, guarantee the availability of any merchandise offered for sale on the Merchant Web Site, and (iii) Merchant is solely responsible for all pricing, merchandising, order processing, order fulfillment, shipping, returns and all other aspects of the Merchant Web Site and the sale of merchandise thereunder. All personal information obtained through users' use of the Merchant Web Site shall be the exclusive property of Merchant.

**7. Commission Payments** MedSafe shall process affiliate payments for the month within 20 business days following the close of the month. All sales must be verified before affiliate has earned commission. Payments are processed by using the JROX Affiliate Management (JAM) Software Program for the month within 20 business days following the close of the month.

CPA:

Affiliates should be entitled to 10% CPA commission for a verified sale derived from any transaction from visitors who first linked to the client's sites from the affiliate site and created an account and logging at MedSafe during the term of this agreement.

Subject to the terms and conditions of this Agreement, Merchant will pay Affiliate the above described commission on a monthly basis. Commissions will be paid by the 20th working day of each month to all Affiliates that earned commissions during the prior month; otherwise Affiliate will be notified of delays. If a commission payment is made hereunder and relates to merchandise which is later returned by the customer, the applicable commission will be deducted by Merchant from the next possible monthly payment hereunder. Upon termination of this Agreement, Merchant will send, or cause to be sent, to Affiliate, a payment for the total amount of commission then owed to Affiliate as of the termination date. The final commission payment may be withheld by Merchant for a reasonable period of time to ensure that the correct amount is to be paid after making any adjustments that may be required, including, but not limited to, adjustments for returns.

In the event that Merchant selects a currency different from Affiliate's chosen payment currency, you agree to be paid according to the terms and provisions outlined in the then current MedSafe Affiliate Agreement Terms of Use Agreement.

**8. Email Advertising.** Affiliate agrees and warrants that it will not send, transmit and/or distribute any MedSafe Offer (as defined in the Agreement) via e-mail unless such e-mail is not deemed "SPAM e-mail" (as defined below). An e-mail shall be deemed to be "SPAM e-mail" if such e-mail satisfies any one or more of the following criteria: (i) The e-mail fails to identify the Publisher as the sender of the e-mail; (ii) The e-mail contains a falsified sender domain name or non-responsive IP address; (iii) The e-mail contains or includes a false or misleading subject line that attempts to disguise or conceal the content of the e-mail; (iv) The e-mail fails to notify the recipient that he or she may unsubscribe or "opt out" from further e-mail solicitations from the Distribution Partner/Publisher; and (v) The e-mail fails to contain or include a valid return e-mail address or other internet based mechanism whereby recipients can unsubscribe or "opt out" from receiving further e-mail solicitations from the Publisher. Such return e-mail address or other internet based mechanism shall remain valid for no less than thirty (30) days from the date of transmission of the e-mail and the affiliate shall implement all requests to unsubscribe or "opt out" within ten (10) days of receipt of such request; (vi) The e-mail fails to contain or include a valid physical postal address for the affiliate (which shall not include a P.O. Box address); (vii) The e-mail is sent to an individual who was not provided with an accurate, clear and conspicuous description of the marketing purposes for which his or her e-mail address may be used at the time such e-mail address was provided by the individual; (viii) The e-mail fails to provide clear and conspicuous notice that the message is an advertisement or solicitation; (ix) The e-mail is

sent for the purpose (but not necessarily the sole purpose) of harvesting the e-mail addresses in order to send future unsolicited e-mails; or (x) The e-mail contains nudity, profanity, sexually oriented materials, hate speech, or other obscene content. 9.1 CAN-SPAM ACT affiliate further agrees and warrants that it will comply with all local, state and federal laws (including, but not limited to, the "CAN-SPAM" Act, effective January 1, 2004) regarding the sending of e-mails. 9.2 Opt-in Information Merchant will notify the affiliate of any complaint regarding their e-mail practices or any alleged violation of the above warranties. Within forty-eight (48) hours of notification, the affiliate must respond to [merchant] and provide source information as to any questionable e-mails including, but not limited to, the time, date, IP address and content of the questionable e-mails along with the applicable "opt-in" information (e.g. time, date and IP address of opt-in source) of the recipient. If the affiliate fails to provide source information satisfactory to [merchant] to demonstrate that the affiliate did not send SPAM e-mail or otherwise breach the above warranties, then The Cute Kid has the right to immediately suspend payment to and further performance of any services by the affiliate.

**9. Interference with links:** Consumers who click through to Merchant's site through a Qualifying Link shall experience Merchant's site exactly as presented by Merchant. Without limiting the foregoing, Affiliate shall not "frame" users' access of Merchant's site in any manner, including without limitation, with advertisements, branding or other material. Additionally, Affiliate shall not transmit any so-called "interstitials," "ParasiteWare," "Parasitic Marketing," "Shopping Assistance Application," "Toolbar Installations/Add ons," "Shopping Wallets" or "deceptive pop ups/unders" to Consumers from the time the Consumer clicks on a Qualifying Link until such time as the Consumer has fully exited Merchant's site (i.e., no page from Merchant's site or any Merchant content or branding is visible on the Consumer's screen).

As used herein a. "ParasiteWare" and "Parasitic Marketing" shall mean an application that (a) through accidental or direct intent causes the overwriting of affiliate and non affiliate commission tracking cookies through any other means than a customer initiated click on a Qualifying Link on a web page or email; (b) intercepts searches to redirect traffic through an installed software, thereby causing, pop ups, commission tracking cookies to be put in place or other commission tracking cookies to be overwritten where a user would under normal circumstances have arrived at the same destination through the results given by the search (search engines being, but not limited to, Google, MSN, Yahoo, Overture, AltaVista, Hotbot and similar search or directory engines); (c) set commission tracking cookies through loading of Merchant site in IFrames, hidden links and automatic pop ups that open the Merchant site; (d) targets text on web sites, other than those web sites 100% owned by the application owner, for the purpose of contextual marketing; (e) removes, replaces or blocks the visibility of Affiliate banners with any other banners, other than those that are on web sites 100% owned by the owner of the application.

**10. Trademark restrictions:** Except and only to the extent specifically set forth in this Agreement, Affiliate shall not acquire any right under this Agreement to use the URL Mark or the name "Merchant": (a) in any advertising, publicity, or promotion including pay per click bidding or sponsored links for the "Merchant" trademark; (b) to express or to imply any endorsement of Affiliate's products or services; or (c) in any other way.

**11. Sales Tracking.** We will track sales made to customers who came to our Merchant Web Site from the Merchant Content displayed on your Affiliate Web Site using JROX Affiliate Management (JAM) Software Program. We will continue to track the sales made to such customers, and to pay you a commission for such sales as long as our cookies remain in the customer's computer. You and we each agree to rely on, and not to challenge or dispute, the sales tracking and other information that we compile in connection with the Program, which will bind both you and us for all purposes under this Agreement. You hereby agree that when and if the cookies used to track sales to customers who came to our Merchant Web Site through the Merchant Content displayed on your Affiliate Web Site are deleted, erased, corrupted or become unworkable for whatever reason, we will no longer be able to track sales to that customer and shall not be liable for payment of any additional commissions to you for any additional purchases made by such customer(s) from our merchant partners.

**12. Independent Contractors and Relationships.** All Affiliates are independent contractors and are not employees of Merchant. Affiliates are responsible for their own federal, provincial, state, local or other taxes. Nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. The parties agree and understand that JROX Affiliate Management (JAM) Software Program remains an unaffiliated third party to Merchant and Affiliate and that although JROX Affiliate Management (JAM) Software Program may facilitate payments to be made by Merchant to Affiliate, it will in no event actually retain the services of Affiliate.

**13. Merchant guarantees no specific income from this Program.** We may change our policies, operating procedures or commission levels at any time. No unsolicited bulk email or other spamming techniques shall be used to market our products. We reserve the right to reject orders that do not comply with any requirements that we periodically may establish. For a sale to generate a commission, the customer must follow a special link from a web page located on your Affiliate Web Site to our online catalog item, purchase the item using our ordering system, accept delivery of the item at the shipping destination, and remit full payment to us. If an item that generated a commission is returned by the customer, we will deduct the corresponding fee from your next monthly payment.

**14. Responsibility for Affiliate URLs and Affiliate Participation.** The Affiliate will be solely responsible for the development, operation, and maintenance of all URLs that are linked to the Merchant Web Site and for all materials that appear on such URLs. The Affiliate acknowledges and agrees that it shall be responsible for complying with the terms hereof.

**15. Affiliate Indemnification.** The Affiliate, at its own expense, will indemnify, defend and hold harmless, Merchant, its respective parents, subsidiaries and affiliates, and each of their respective directors, officers, employees, agents, affiliates, successors and assigns against any claim, suit, action, judgment, liability, loss, cost, expenses and other damages, including reasonable attorney's fees, based upon or in connection with (i) any breach or alleged breach of Affiliate's representations and warranties hereunder, (ii) the failure to comply with or perform any obligation or agreement of Affiliate hereunder, (iii) the Affiliate's Web Site(s) and/or any content, technology or other materials displayed or contained thereon, including but not limited to with respect to claims of infringement, (iv) Affiliate's failure or alleged failure to comply with any applicable law, and/or (v) any actual or alleged wrongful act of Affiliate.

**16. Term of the Agreement.** This Agreement shall begin on the Effective Date and shall terminate on the date on which Merchant no longer maintains the Program contemplated hereunder. Either party may terminate this Agreement at any time and for any reason by providing notice to the other party. Merchant may terminate this Agreement immediately, without notice, if Merchant determines, in its sole discretion, that the Affiliate has breached this Agreement or that Affiliate's web site(s) are unsuitable to participate as an Affiliate of Merchant.

**17. Modification of Agreement.** Merchant reserves the right to modify this Agreement, at any time in its sole discretion, by posting a change of notice or a new agreement on the Merchant Web Site and sending an email notification to Affiliate. IF ANY MODIFICATION IS UNACCEPTABLE TO AFFILIATE, AFFILIATE'S SOLE RECOURSE IS TO TERMINATE THIS AGREEMENT. AFFILIATE'S CONTINUED PARTICIPATION AS AN AFFILIATE OF MERCHANT FOLLOWING THE MODIFICATION OF THIS AGREEMENT SHALL CONSTITUTE ACCEPTANCE OF SUCH MODIFICATION BY AFFILIATE.

**18. WARRANTY DISCLAIMER.** MERCHANT MAKES NO WARRANTIES, REPRESENTATIONS, GUARANTEES, OR CONDITIONS WITH REGARD TO THE PRODUCTS SOLD ON THE MERCHANT WEB SITE OR THE OPERATION AND MAINTENANCE OF THE MERCHANT WEB SITE, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. IN PARTICULAR, MERCHANT MAKES NO REPRESENTATION THAT THE OPERATION OF THE MERCHANT WEB SITE WILL BE UNINTERRUPTED OR ERROR-FREE.

19. **LIMITATION OF DAMAGES.** MERCHANT WILL HAVE NO LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF REVENUE OR PROFITS ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT OR THE AFFILIATE PROGRAM, EVEN IF MERCHANT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, MERCHANT'S AGGREGATE LIABILITY ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT OR THE AFFILIATE PROGRAM WILL IN NO EVENT EXCEED THE TOTAL REVENUE SHARE PAID OR PAYABLE BY MERCHANT TO AFFILIATE UNDER THIS AGREEMENT DURING THE PROCEEDING 12 MONTH PERIOD PRIOR TO THE DATE SUCH LIABILITY AROSE.

20. **Headings.** The titles and headings of the various sections and paragraphs in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify, or place any construction upon or on any of the provisions of this Agreement.

21. **Assignment.** The Affiliate may not assign any of its rights or delegate any of its obligations under this Agreement, by operation of law or otherwise, without Merchant's prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns.

22. **Waiver.** Merchant's failure to enforce strict performance of any provision of this Agreement will not constitute a waiver of its right to subsequently enforce such provision or any other provision of this Agreement.

23. **Governing Law and Language.** This Agreement shall be governed by and interpreted and enforced in accordance with the laws of United States.

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Affiliate

\_\_\_\_\_  
Date

\_\_\_\_\_  
MedSafe Officer

\_\_\_\_\_  
Date