

Hey Brothers and Sisters!

Just a quick note from me to you about our #1 Best-Tasting Premium Brand of Protein Jay Robb and our very successful affiliate program!

My beautiful wife Beth and I have always welcomed everyone into our home and love to host gatherings that offer peace, love, and fun! When folks gather into our home, they are treated with (what my wife likes to call) southern hospitality. They are treated with kindness and respect as we provide an atmosphere of generosity, peace and love. Most of all, we like to have FUN!

Jay Robb is also our home that we are now welcoming you into as an affiliate. As an affiliate of Jay Robb, you will act as our host, welcoming your friends, family and followers into our home filled with PEACE, LOVE, and FUN! You will be playing an extremely important role as a Jay Robb Affiliate. As the host of our Jay Robb home, we ask for only those who are dedicated to our brand and what we stand for. It's an honor to represent Jay Robb. We love and respect those who love it as much as we do and want to spread the word! We developed our affiliate program with you in mind. If you're going to spread the word of Jay Robb, then you might as well get rewarded for it. And don't forget the main ingredients...PEACE, LOVE, and FUN!

Our affiliates are very important to us. We have written the following affiliate agreement with you in mind, as well as to protect Jay Robb's brand. If you have any questions, please don't hesitate to let us know. We are strong believers in straightforward and honest communication. For quickest results, please email us at [info@jayrobb.com](mailto:info@jayrobb.com). You can also reach us via phone, toll-free: 1(877) JAY-ROBB.

Peace and Love!

Jay Robb

CEO

## **AFFILIATE MARKETING AGREEMENT**

PLEASE READ THE ENTIRE AGREEMENT.

WE ENCOURAGE YOU TO PRINT THIS AGREEMENT FOR YOUR RECORDS.

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND JAY ROBB ENTERPRISES, INC.

BY SUBMITTING THE ONLINE APPLICATION, YOU ARE AGREEING THAT YOU HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THAT YOU AGREE TO BE LEGALLY RESPONSIBLE FOR EACH AND EVERY TERM AND CONDITION.

### **1. Overview**

This Affiliate Marketing Agreement (“Agreement”) contains the complete terms and conditions that apply to you becoming a marketing affiliate in the Jay Robb Enterprises, Inc. Affiliate Program (defined below). The purpose of this Agreement is to allow HTML linking between your website and the JAYROBB.COM website. Please note that throughout this Agreement, “Jay Robb,” “we,” “us,” and “our” refer to Jay Robb Enterprises, Inc., and “Affiliate” “you,” “your,” and “yours” refer to the party participating in the Affiliate Program.

### **2. Definitions**

2.1 “Affiliate Account Manager” means the tool that we make available to you upon your acceptance into the Affiliate Program and for you to use in order to participate in the Affiliate Program.

2.2 “Affiliate Link” means the unique tracking link provided by us that you place on your website for the purpose of allowing internet users to click through to the JAYROBB.COM.

2.3 “Affiliate Program” means the affiliate marketing program described in this Agreement whereby Jay Robb agrees to pay Affiliate a commission for sales of the Jay Robb products to Referred Customers.

2.4 “Affiliate Site” means the website owned by Affiliate, which has been approved by us to be used in the Affiliate Program.

2.5 “Commission Fee” means the amount that you will be paid for each Qualified Purchase by a Referred Customer pursuant to the terms of this Agreement.

2.6 “Qualified Purchases” means a sale of a Jay Robb product by Jay Robb to a Referred Customer that is not excluded under Section 7.2.

2.7 "Referred Customers" means each new and unique internet user who has clicked through to the JAYROBB.COM directly from the Affiliate Site through an Affiliate Link that provides valid account and billing information.

### 3. Affiliate Obligations

3.1. If you qualify to participate in the Affiliate Program, we will make a variety of graphic and textual Affiliate Links available to you. The Affiliate Links will serve to identify your Affiliate Website as a member of the Affiliate Program and will establish a link from your website to the JAYROBB.COM website. You agree to cooperate fully with us in order to establish and maintain such Affiliate Links. You further agree that your use of the Affiliate Links must be in compliance with this Agreement at all times. We may modify the Affiliate Links from time to time in our sole and complete discretion. You agree to update such links on the Affiliate Website within one (1) business day from receiving notice of such modification with the updated link. You will not use graphic or textual images to promote Jay Robb that are not approved in advance by us. You also agree to remove any Affiliate Links within one (1) business day from receiving a request from us.

3.2 To begin the enrollment process, you will complete and submit the online application at the JAYROBB.com server. The fact that we auto-approve applications does not imply that we may not re-evaluate your application at a later time. We may reject your application at our sole discretion. If we reject your application, for any reason, you may not re-apply to the Affiliate Program utilizing the same domain name/URL or reapply using a different domain/URL name and then add the previously rejected domain name/URL to your affiliate account. In particular, we are likely to reject your application if we determine that your site is unsuitable for our Affiliate Program, including if it:

3.2.1. Promotes sexually explicit materials

3.2.2. Promotes violence

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

3.2.4. Promotes illegal activities

3.2.5. Incorporates any materials which infringe or assist others to infringe on any copyright, trademark, or other intellectual property rights or to violate the law

3.2.6. Includes "JAY ROBB" or variations or misspellings thereof in its domain name

3.2.7. Is otherwise in any way unlawful, harmful, threatening, defamatory, obscene, harassing, or racially, ethnically, or otherwise objectionable to us in our sole discretion.

3.2.8. Contains software downloads that potentially enable diversions of commission from other Affiliates in our program.

3.3 As a member of Jay Robb's Affiliate Program, you will have access to our Affiliate Account Manager. Here you will be able to review our Affiliate Program's details and previously published affiliate newsletters, download HTML code (that provides for links to web pages within the JAYROBB.COM website) and banner creatives, browse and get tracking codes for our coupons and deals. In order for us to accurately keep track of all guest visits from your site to ours, you must use the HTML code that we provide for each banner, text link, or other Affiliate Link we provide you with.

3.4 Discounts and Coupons. You are not allowed to post any refunds, credits or discounts on the Jay Robb products, or other content concerning Jay Robb without our prior written consent in each instance. Affiliates may only use coupons and discounts that are provided exclusively through the Affiliate Program using Affiliate Links and only for the specific period of time identified by us.

3.6 The maintenance and the updating of your Affiliate Site shall be at your sole cost and responsibility. We may monitor your site as we feel necessary to make sure that it is up-to-date and to notify you of any changes that we feel should enhance your performance. You may not create or design your website or any other website that you operate, explicitly or implied in a manner which resembles our website nor design your website in a manner which leads customers to believe you are Jay Robb or any other affiliated business.

3.7 It is entirely your responsibility to follow all applicable intellectual property and other laws that pertain to your Affiliate Site. You must have express permission to use any person's copyrighted material, whether it be a writing, an image, or any other copyrightable work. We will not be responsible (and you will be solely responsible) if you use another person's copyrighted material or other intellectual property in violation of the law or any third-party rights. The Affiliate Site shall be directed solely to consumers in the United States, shall not offer goods or services to individuals in the EU, and shall not monitor the behaviour of data subjects located within the EU.

3.8 In 2009, the FTC published [Guides Concerning the Use of Endorsements and Testimonials in Advertising](#) (the "FTC Guidelines"). These FTC Guidelines require companies and individuals who receive compensation for endorsing a product or service to clearly disclose this connection to the consumer. As a result, any Affiliate who receives compensation for endorsing or promoting products or services using reviews, rankings, blogs, videos, articles, or other testimonials must clearly and conspicuously disclose this financial incentive. Jay Robb requires all of its Affiliates to comply with the FTC Guidelines. Failure to do so may result in removal from our Affiliate Program and the cancellation of all outstanding commissions owed to the Affiliate.

#### 4. Jay Robb Reservation of Rights

4.1. We have the right to monitor your Affiliate Site at any time to determine if you are following the terms and conditions of this Agreement. We may notify you of any changes to your site that we feel should be made, or to make sure that your links to our website are appropriate and to notify further you of any changes that we feel should be

made. If you do not make the changes to your Affiliate Site that we feel are necessary, we reserve the right to terminate your participation in the Affiliate Program and any pending balances or future commissions owed to you will not be paid.

4.2 To the maximum extent permitted by law, we or our third-party licensees or suppliers (and not you) shall own all right, title, and interest in and to any consumer data that Jay Robb collects including through any log files, event data, GPS data, cookies, clear gifs, scripts, and other technologies used by Jay Robb directly or through you to collect and process such consumer data.

## **5. Term and Termination**

5.1 This Agreement will begin upon our acceptance of your Affiliate application, and will continue unless terminated hereunder.

5.2 Either you or we may end this Agreement AT ANY TIME, with or without cause for any reason whatsoever, by giving the other party written notice. Written notice can be in the form of mail, email, or fax. In addition, this Agreement will terminate immediately upon any breach of this Agreement by you.

5.3 Jay Robb reserves the right to terminate this Agreement and your participation in the Affiliate Program immediately and without notice to you should you commit fraud in your use of the Affiliate Program or should you abuse this program in any way. If such fraud or abuse is detected, any pending balances or future Commission Fees owed to you are forfeit and will not be paid.

## **6. Modification**

We may modify any of the terms and conditions in this Agreement at any time at our sole discretion. In such event, you will be notified by email. Modifications may include, but are not limited to, changes in the payment procedures and the Affiliate Program rules. If any modification is unacceptable to you, your only option is to end this Agreement. Your continued participation in the Affiliate Program following the posting of the change notice or new Agreement on our site will indicate your agreement to the changes.

## **7. Order Processing**

7.1 Jay Robb will process orders placed by Referred Customers who follow the Affiliate Link from an Affiliate Site to JAYROBB.COM. We reserve the right, in our sole discretion, to reject orders that do not comply with certain requirements that we may establish from time to time. All aspects of order processing and fulfillment, including processing, refunds and payment processing will be our responsibility. We will track the Qualified Purchases generated by your Affiliate Site and will make this information available to you through our website. To permit accurate tracking, reporting, and commission accrual, you must ensure that the Affiliate Links between your Affiliate Site and our website are properly formatted.

7.2 Commission Determination; Qualified Purchases. Commissions will be calculated based on the commission rates stated on the Jayrobb.com website for each Qualified Purchase subject to commission accruing pursuant to below. A "Qualified Purchase" does NOT include the following:

- A purchase by a Referred Customer that has transferred from any Jay Robb partners or subsidiaries.
- A purchase by a Referred Customer who is also associated with any Jay Robb reseller, referral, or other program.
- A purchase by a Referred Customer that is not up to date on its payments or is subject to a refund, referral, or other program.
- A purchase that was completed prior to the Affiliate joining the Affiliate Program or was not tracked properly through an Affiliate Link.
- A purchase by a Referred Customer that has not been in good standing for a period of at least thirty (30) days or is in violation of Jay Robb's Terms of Service, Acceptable Use Policy, or other applicable policies at the time the Commission Fees accrue.
- A purchase that Jay Robb suspects, in its sole discretion, is the result of fraud, which shall include but is not limited to, the use of software that generates real and fictitious information, multiple accounts from the same customer, or the referral of accounts that do not comply with this Agreement.
- A purchase by a Referred Customer if the Referred Customer was offered or received coupons, refunds, credits or discounts from the Affiliate.
- A purchase by a Referred Customer if the Affiliate or Referred Customer is in or is promoting a business-opportunity program, as determined by us in our sole discretion.
- A purchase by a Referred Customer who received a popup with a discounted offer, while leaving Jay Robb's website during their purchase.
- A purchase by a Referred Customer engaging in "Domain Speculation," which is determined by the identification of two (2) web hosting accounts with the same Referred Customer's name, email address, or other identifying characteristics as determined by Jay Robb and/or the identification of two (2) or more web hosting accounts that have content on their websites or have similar content, templates or formatting, as determined by Jay Robb, in our sole discretion.
- A purchase by a Referred Customer as a result of a breach of this Agreement or violation of any laws or regulations.

7.3 If a Referred Customer returns product and receives a refund or credit from Jay Robb, the commission the Affiliate received from that sale will be deducted from their account.

## 8. Payment

8.1 Jay Robb will track of all Qualified Purchases for each calendar month. Commission Fees will be processed approximately forty-five (45) to sixty (60) days after the end of the month or other period in which they accrue. Jay Robb will only compensate you for Qualified Purchases made in accordance with this Agreement. Commission Fees shall be paid based on the current information in your Affiliate profile. You are required to notify us promptly of any change in your address by updating your profile information by emailing [info@jayrobb.com](mailto:info@jayrobb.com).

8.2 Jay Robb reserves the right to suspend the payment of Commission Fees at any time and indefinitely, if it suspects fraud or other improper activity or a potential breach of any of the terms of this Agreement by the Affiliate or a Referred Customer. Jay Robb reserves the right to deduct from Affiliate's current and future Commission Fees any and all Commission Fees corresponding to any fraudulent, questionable, and cancelled purchases.

8.3 Jay Robb reserves the right to immediately cancel or withhold for later review any Commission Fee that fails to meet the criteria of a "Qualified Purchase." Affiliate is responsible for monitoring the payment, denial and, withholding of Commission Fees. Jay Robb is not obligated to actively notify Affiliates of the status of Commission Fees. If Affiliate has a question about a Commission Fee that has been cancelled or withheld, Affiliate has thirty (30) days from the day of the payment would have been due to contact Jay Robb to request that the Commission Fee be paid. Any changes to decisions about cancelled or withheld Commission Fees are strictly made in Jay Robb sole discretion.

8.4 Commissions for any Referred Customer who is associated with any Jay Robb reseller, referral or other program may not be considered a Qualified Purchase. In other words, you may not receive double commissions or compensation.

8.5 Any attempt by an Affiliate to manipulate, falsify or inflate the Referred Customers, Qualified Purchases, or Commission Fees to intentionally defraud Jay Robb or any violation of the terms of this Agreement constitutes immediate grounds for Jay Robb to terminate the Affiliate's participation in the Affiliate Program and will result in the forfeiture of any Commission Fees due to the Affiliate.

8.6 Each Affiliate is required to submit a W9 tax form before any Commission Fees shall accrue. You are responsible for the payment of all taxes related to commissions you receive under this Agreement. In compliance with U.S. tax laws, Jay Robb will issue a Form 1099 to Affiliate whose earnings meet or exceed the applicable threshold.

## 9. Promotion Restrictions

9.1 Affiliate shall comply with all applicable local, state, or federal laws, regulations, ordinances, codes, or other requirements relating to its performance under this Agreement, including but not limited to all insurance laws, ordinances, regulations and codes, the CAN-SPAM Act and/or other spamming laws, ordinances, regulations and codes, and all deceptive practices, telemarketing, do-not call, privacy, and consumer protection laws, ordinances, regulations and codes. All representations, advertising and promotional materials must be truthful and accurate and avoid leaving any false, misleading, or exaggerated impressions.

9.2 You are free to promote your own websites, but naturally any promotion that mentions Jay Robb could be perceived by the public or the press as a joint effort. You should know that certain forms of advertising are always prohibited by Jay Robb. For example, advertising commonly referred to as "spamming" is unacceptable to us and could cause damage to our name. Other generally prohibited forms of advertising include the use of unsolicited commercial email (UCE), postings to non-commercial newsgroups and cross-posting to multiple newsgroups at once. In addition, you may not advertise in any way that effectively conceals or misrepresents your identity, your domain name, or your return email address. You may use mailings to customers to promote Jay Robb so long as the recipient is already a customer or subscriber of your services or website, and recipients have the option to remove themselves from future mailings. Also, you may post to newsgroups to promote Jay Robb so long as the news group specifically welcomes commercial messages. At all times, you must clearly represent yourself and your websites as independent from Jay Robb. If it comes to our attention that you are spamming, we will consider that cause for immediate termination of this Agreement and your participation in the Jay Robb Affiliate Program. Any pending balances or future commissions owed to you will not be paid if your account is terminated due to such unacceptable advertising or solicitation.

9.3 Affiliate shall not bid on, use or purchase (nor authorize or permit any third party to purchase), directly or indirectly, any keywords or adwords that contain, in whole or in part, any trade names, trademarks, service marks or slogans used by or associated with Jay Robb and/or any keyword or adword that is a misspelling or confusingly similar thereto. Affiliates that use among other keywords or exclusively bid in their Pay-Per-Click campaigns on keywords such as Jay Robb, JAYROBB, and/or any misspellings or similar alterations of these – be it separately or in combination with other keywords – and do not direct the traffic from such campaigns to their own website prior to re-directing it to ours, will be considered trademark violators, and will be banned from the Affiliate Program. We will do everything possible to contact the Affiliate prior to the ban. However, we reserve the right to expel any trademark violator from our Affiliate Program without prior notice, and on the first occurrence of such PPC bidding behavior. Any pending balances or future commissions owed to you will not be paid if your account is terminated due to such unacceptable advertising or solicitation.



9.4 No compensation of any nature may be paid, provided or offered to a potential purchaser (including, without limitation, points or sweepstakes or contest entries) in exchange for clicking on the Affiliate Link and/or making any Qualified Purchases. Action taken that may create the impression that incentives are being used in connection with the generation of Qualified Purchases is also prohibited.

9.5 Affiliate shall not register (nor authorize or permit any third party to register) any domain names that contain our trade name, trademarks, service marks or slogans.

9.6 Affiliate shall not transmit any so-called "interstitials," "Parasiteware," "Parasitic Marketing," "Shopping Assistance Application," "Toolbar Installations and/or Add-ons," "Shopping Wallets" or "deceptive pop-ups and/or pop-unders" to consumers from the time the consumer clicks on a qualifying link until such time as the consumer has fully exited Jay Robb's site (i.e., no page from our site or any Jay Robb's content or branding is visible on the end-user'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 Jay Robb's site in IFrames, hidden links and automatic pop ups that open Jay Robb's site; (d) targets text on websites, other than those websites 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 websites 100% owned by the owner of the application.

9.7 No advertising-supported software served or enabled by an application that is downloaded onto a user's computer (aka adware) shall be used without our prior written approval.

## 10. Grant of Licenses

10.1 We grant to you a non-exclusive, non-transferable, revocable right during the term of this Agreement to (i) access our site through HTML links solely in accordance with the terms of this Agreement and (ii) solely in connection with such links, to use our logos, trade names, trademarks, and similar identifying material (collectively, the "Licensed Materials") that we provide to you or authorize for such purpose. You are only entitled to use the Licensed Materials to the extent that you are a member in good standing of the Affiliate Program. You agree that all uses of the Licensed Materials will be on behalf of Jay Robb and the good will associated therewith will inure to the sole benefit of Jay Robb. The license granted by Jay Robb hereunder shall immediately and without any further action terminate upon termination of this Agreement.

10.2 Each party agrees not to use the other's proprietary materials in any manner that is disparaging, misleading, obscene, or that otherwise portrays the party in a negative light. Each party reserves all of its respective rights in the proprietary materials covered by this license. Other than the license granted in this Agreement, each party retains all right, title, and interest to its respective rights and no right, title, or interest is transferred to the other.

## **11. Disclaimer of Warranties**

JAY ROBB MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES REGARDING COMPANY SERVICE AND WEBSITE OR THE PRODUCTS OR SERVICES PROVIDED THEREIN, ANY IMPLIED WARRANTIES OF COMPATIBILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT ARE EXPRESSLY DISCLAIMED AND EXCLUDED. IN ADDITION, WE MAKE NO REPRESENTATION THAT THE OPERATION OF OUR WEBSITE OR ANY AFFILIATE LINKS WILL BE UNINTERRUPTED OR ERROR FREE, AND WE WILL NOT BE LIABLE FOR THE CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS.

## **12. Affiliate Representations and Warranties**

You represent and warrant that:

12.1 This Agreement has been duly and validly executed and delivered by you and constitutes your legal, valid, and binding obligation, enforceable against you in accordance with its terms;

12.2 You have the full right, power, and authority to enter into and be bound by the terms and conditions of this Agreement and to perform your obligations under this Agreement, without the approval or consent of any other party; and

12.3 You have sufficient right, title, and interest in and to the rights granted to us in this Agreement.

## **13. Limitations of Liability**

WE WILL NOT BE LIABLE TO YOU WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR GOODWILL OR ANTICIPATED PROFITS OR LOST BUSINESS), EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL OUR CUMULATIVE LIABILITY TO YOU ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, OR OTHER LEGAL OR

EQUITABLE THEORY, EXCEED THE TOTAL COMMISSION FEES PAID TO YOU UNDER THIS AGREEMENT.

#### **14. Indemnification**

You hereby agree to indemnify and hold harmless Jay Robb, and its subsidiaries and affiliates, and their directors, officers, employees, agents, shareholders, partners, members, and other owners, against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs, and expenses (including reasonable attorneys' fees) (any or all of the foregoing hereinafter referred to as "Losses") insofar as such Losses (or actions in respect thereof) arise out of or are based on (i) any claim that our use of your Affiliate Website infringes on any trademark, trade name, service mark, copyright, license, intellectual property, or other proprietary right of any third party, (ii) any misrepresentation of a representation or warranty or breach of a covenant and agreement made by you herein, (iii) any claim related to your Affiliate Website, including, without limitation, content therein not attributable to us (iv) any breach of this Agreement by Affiliate, and (v) failure by Affiliate to comply with any applicable law or regulation.

#### **15. Confidentiality**

All confidential information including, but not limited to, any business, technical, financial, and customer information, disclosed by one party to the other during negotiation or the effective term of this Agreement which is marked "Confidential" or which is not marked but a reasonable person would deem to be confidential will remain the sole property of the disclosing party, and each party will keep in confidence and not use or disclose such proprietary information of the other party without express written permission of the disclosing party.

#### **16. Arbitration**

Any and all disputes, conflicts, problems, controversies, or claims of any kind arising from the relationship of the parties, this Agreement, or the interpretation thereof, shall be submitted to binding arbitration under the substantive and procedural requirements of the Federal Arbitration Act. The arbitration shall be conducted in Palm Beach Florida by the American Arbitration Association ("AAA") under the Commercial Arbitration Rules and by a single, neutral arbitrator mutually chosen by the parties. All determinations as to the scope, enforceability and effect of this arbitration agreement shall be decided by the arbitrator, and not by a court. The arbitrator's decision shall be set forth in writing and shall set forth the essential findings and conclusions upon which the decision is based. Any remedy available from a court under the law shall be available in the arbitration. The award rendered by the arbitrator may be entered in any court having jurisdiction. Should either party refuse or neglect to choose an arbitrator or otherwise sincerely and in good faith participate in the arbitration process, then the arbitrator is empowered to proceed with one side alone. Neither party shall file or maintain any lawsuit in any court against the other, and agree that any suit filed in violation of this arbitration agreement shall be dismissed by the court in favor of an arbitration

conducted pursuant to this arbitration agreement and all costs and attorneys' fees incurred in enforcing this provision shall be paid by the party that filed the lawsuit. The costs of the arbitration filing fee, arbitrator's compensation, and facilities fees will be split equally by the parties and each party shall pay for its own attorneys' fees and costs, if any. However, the arbitrator may award to the prevailing party all such fees and costs to the extent permitted by applicable law. If any provision of this arbitration agreement is adjudged to be void or otherwise unenforceable, in whole or in part, such adjudication shall not affect the validity of the remainder of the Agreement. If this arbitration agreement is declared unenforceable and cannot be administered, interpreted, or modified to be enforceable, the parties agree to waive any right to a jury trial with respect to any dispute to which the arbitration agreement applies.

## 17. Miscellaneous

17.1 You agree that you are an independent contractor, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between you and Jay Robb. You will have no authority to make or accept any offers or representations on our behalf. You will not make any statement, whether on your Affiliate Site or any other of your sites or otherwise, that reasonably would contradict anything in this Section.

17.2 Neither party may assign its rights or obligations under this Agreement to any party, except in connection with the sale of the business of a party hereto to which this Agreement relates.

17.3 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to the conflicts of laws and principles thereof.

17.4 You may not amend or waive any provision of this Agreement unless in writing and signed by both parties.

17.5 This Agreement represents the entire agreement between us and you with respect to the Affiliate Program and shall supersede all prior agreements and communications of the parties, oral or written.

17.6 The headings and titles contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

17.7 If any provision of this Agreement is held to be invalid or unenforceable, that provision shall be eliminated or limited to the minimum extent necessary such that the intent of the parties is effectuated, and the remainder of this agreement shall have full force and effect.