



## **INTERNET AFFILIATE PROGRAM AGREEMENT**

### **Effective as of February 1, 2011**

THIS AGREEMENT sets forth the terms and conditions of the relationship between Leaders Merchant Services, LLC ("LEADERS") and each approved LEADERS Internet Affiliate ("Affiliate") who has been notified by LEADERS via e-mail message of LEADERS' acceptance of Affiliate's application to participate in LEADERS Internet Affiliate Program.

#### **1. Enrollment in LEADERS Internet Affiliate Program**

To begin the process of enrolling in LEADERS' Internet Affiliate Program, each potential Affiliate must submit a complete Affiliate Application via LEADERS' website. By submitting such an application, Affiliate acknowledges his or her review, understanding, and acceptance of the terms and conditions set forth in this Internet Affiliate Program Agreement. LEADERS will send each applicant an email notifying the applicant of LEADERS' acceptance or rejection of the application. LEADERS reserves the right to remove an Affiliate from the program at any time without prior notice if it comes to LEADERS' attention that an Affiliate provided inaccurate, misleading, or incomplete information in an application for acceptance into the program or if LEADERS determines, in its sole discretion, that an Affiliate's site is unsuitable for the program. Unsuitable sites include, but are not limited to those that contain nudity or pornographic material, promote violence, promote discrimination, promote the use of bulk e-mail or spam, promote illegal activities, or violate intellectual property rights.

#### **2. Links to LEADERS' Website**

LEADERS will provide Affiliates with instructions to link to LEADERS website from Affiliate's website in a way that identifies Affiliate's site as the source of the link and gives Affiliate credit for every sale that originates from Affiliate's website. LEADERS will provide Affiliate with links and banners to use in linking to LEADERS' website. When a customer clicks on a link to LEADERS' website from an Affiliate's website, the customer will be re-directed to LEADERS' website and then asked to "apply" on LEADERS' website for merchant credit and debit card processing accounts and other services offered by LEADERS. Affiliates may not put LEADERS' web site in frames under any circumstances. Every customer who expresses an interest in LEADERS services by accessing LEADERS' website by any means, including by linking from Affiliate's website, is deemed to be LEADERS' customer. LEADERS will be in direct contact with the customer for the purpose of providing service to the customer. Affiliate shall refer all questions, requests or queries regarding our services to LEADERS. Affiliate does not have the authority to make or accept any offer on behalf of LEADERS. LEADERS is not responsible for any representations made by any Affiliate.

#### **3. Commissions**

Except as otherwise provided in this Agreement, for every customer referred by an Affiliate who opens and activates a merchant credit and debit card processing account with LEADERS, and maintains such an active account for a minimum of 60 days, LEADERS shall pay the Affiliate a commission in accordance with the Internet Affiliate Commission Schedule posted on LEADERS' website. LEADERS reserves the sole discretion to approve or deny applications for merchant processing accounts. LEADERS reserves the right to change its Internet Affiliate Commission Schedule at any time. Commissions payable to Affiliate under the terms of this Agreement shall be in accordance with the terms of the LEADERS Internet Affiliate Commission Schedule as posted at the time commissions are earned – *i.e.* 60 days following the date of activation of a new account by a merchant referred by Affiliate without prior cancellation of the account by the merchant. The date of activation of a new merchant account, for the purposes of this Agreement, shall be the date that the new merchant batches out its first day of processing with LEADERS. Commission amounts are

determined by the actual processing volume of the merchant in the merchant's first calendar month with LEADERS following the date of activation. Commissions shall be payable by LEADERS to Affiliate on or around the 15th of each calendar month for the commissions earned in the previous calendar month. Notwithstanding the foregoing, upon notice to an Affiliate of any curable breach of this Agreement by that Affiliate, LEADERS may withhold payment of any commissions otherwise due and payable to that Affiliate pending the Affiliate's cure of the noticed breach of this Agreement by the Affiliate. LEADERS will also withhold payment of commissions payable to an Affiliate totaling less than \$200 until such a time as total commissions payable to that Affiliate exceed \$200.

#### **4. Self Referrals**

Affiliate will not be eligible for a commission on a referral to LEADERS, directly or indirectly, of Affiliate, or any entity owned or controlled, in whole or in part, by Affiliate. No commissions will be payable to any Affiliate for a direct or indirect self-referral, or for any referral LEADERS determines, in its sole discretion, constitutes a self-referral.

#### **5. Multi-Merchant Accounts**

If a referred merchant activates multiple accounts in one physical location – *i.e.* one physical postal address – Affiliate shall be eligible to receive only a single commission based on the total volume in the first calendar month for all accounts in that one location. If a referred merchant activates multiple accounts, each in a separate and distinct location, and each with a distinct physical postal address, Affiliate shall be eligible to receive an individual commission based on the total volume in the first calendar month for each account at each distinct location.

#### **6. Tax ID / W-9 form**

U.S. based Affiliates must provide LEADERS with a valid Tax ID and an IRS form W-9 reflecting that Tax ID. Affiliate may access W-9 form by logging into Affiliate Account and clicking on W-9 link. No commissions shall be payable to any Affiliate under the terms of this Agreement until LEADERS has received a valid W-9 form, reflecting a valid Tax ID, from the Affiliate.

#### **7. Inappropriate Marketing Techniques**

Affiliates shall not promote LEADERS' services or any link to Affiliate's website or to LEADERS' website through the use of inappropriate Internet marketing techniques including but not limited to sending unsolicited email, posting in newsgroups or discussion forums in any manner that violates the terms and conditions of the newsgroup or discussion forum, and participating in any other format of spam. Violations of this provision will result in immediate termination of this Affiliate Agreement.

#### **8. Tracking**

LEADERS will provide Affiliates with a tracking system to monitor referrals through click-throughs, leads, and sales. LEADERS will use its best effort to ensure that the accuracy of the information reflected in this tracking system, but shall not be responsible for any inaccuracies in such information. LEADERS also shall not be responsible for any tracking problems caused by improper Affiliate linking, Affiliate's website, the visitor's computer, browser, or the Internet, or anything other factor beyond LEADERS' control.

#### **9. Limited License**

LEADERS grants each Affiliate a limited, non-exclusive, non-transferable license, during the term of the Affiliate's participation in LEADERS Internet Affiliate Program, to use text and images, owned by LEADERS for the sole purpose of marketing, advertising and promoting LEADERS. No Affiliate may alter or modify any link or banner provided by LEADERS, or any of LEADERS' images in any way without LEADERS express written permission. LEADERS reserves all of its rights in its trade names, trademarks, and all other intellectual property. The license herein granted to each Affiliate shall automatically and immediately cease upon the termination of that Affiliate's participation in LEADERS Internet Affiliate Program.

**10. Term of the Agreement**

The term of this Agreement will begin upon LEADERS' notice to Affiliate of Affiliate's acceptance of Affiliate's application to participate in the LEADERS Internet Affiliate Program and will end when such participation is terminated by either party. Either Affiliate or LEADERS may terminate this Agreement at any time, with or without cause, by giving the other party written or email notice of termination. Affiliates are only eligible to earn commissions on sales occurring during the term of their participation in the LEADERS Internet Affiliate Program.

**11. Modification**

LEADERS may modify any of the terms and conditions contained in this Agreement, at any time and in its sole discretion, by posting a change notice or a new agreement on its website at [www.leadersmerchantservices.com](http://www.leadersmerchantservices.com). Modifications may include, for example, changes in the scope of available commissions, commission schedules, payment procedures and Program rules. IF ANY MODIFICATION IS UNACCEPTABLE TO AN AFFILIATE, THE ONLY RECOURSE TO THAT AFFILIATE IS TO TERMINATE THIS AGREEMENT. AN AFFILIATE'S CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING LEADERS' POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON ITS SITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

**12. Relationship of Parties**

Affiliates are independent contractors and nothing in this agreement is intended to or will create any form of partnership, joint venture, agency, franchise, sales representative or employment relationship with LEADERS.

**13. Limitation of Liability**

Any claim which arises out of this Agreement, or the performance thereof, must be brought or made by either party within one year after the basis for the claim becomes known to the party asserting it. LEADERS shall not be liable for indirect, special, or consequential damages (or any loss of revenue, profits, or data) arising in connection with this Agreement or the Program, even if LEADERS has been advised of the possibility of such damages. Further, LEADERS' aggregate liability to any Affiliate arising with respect to this Agreement and the Internet Affiliate Program will not exceed the total commissions paid or payable to that Affiliate under this Agreement.

**14. Disclaimers**

LEADERS makes no express or implied warranties or representations with respect to the Internet Affiliate Program or an Affiliate's potential to earn income from the Internet Affiliate Program. In addition, LEADERS makes no representation that the operation of its website or an Affiliate's websites will be uninterrupted or error-free. LEADERS will not be liable for the consequences of any interruptions or errors.

**15. Independent Investigation**

EACH AFFILIATE ACKNOWLEDGES THAT SAID AFFILIATE HAS READ THIS AGREEMENT AND AGREES TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT LEADERS 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 COMPETITIVE WITH AN AFFILIATE'S WEBSITE. EACH AFFILIATE ALSO ACKNOWLEDGES THAT SAID AFFILIATE HAS INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN LEADERS' INTERNET AFFILIATE PROGRAM AND IS NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

**16. ASSIGNMENT**

No Affiliate shall have the right to assign this Agreement without the prior written consent of LEADERS. LEADERS has the right to assign any right, duty, obligation, or interest in this Agreement whatsoever to any party without the written consent of any Affiliate.

**17. JURISDICTION AND VENUE OF DISPUTES**

The parties acknowledge and agree that this Agreement was executed in the State of California and that Ventura County, California shall be the proper place of venue for suit. The parties further and irrevocably agree that any legal proceeding in respect to this Agreement shall be brought in the superior court located in Ventura County, California, or the United States District Court serving this area, and that these courts shall have subject matter jurisdiction of all such disputes. The parties agree that except insofar as Federal Law may preempt this Agreement, it shall be governed by the law of the State of California.

**18. SEVERANCE/SAVINGS CLAUSE**

At the option of LEADERS, any provision of this Agreement held to be void, invalid, or unenforceable shall be deemed to be severed, and the remainder of this Agreement shall remain in full force and effect as if the severed portion had never been included.

**19. TITLE AND HEADING**

The title and headings of terms in this Agreement exist solely for the convenience of the reader and do not limit the subject matter thereof.