



## **Think Safe Affiliate Agreement**

This Agreement contains the complete terms and conditions which you or your organization (the "Affiliate") agree to be bound by as a participant in Think Safe's affiliate program (the "Program") and which shall apply once your application to participate in the Program has been accepted by Think Safe.

### **ARTICLE 1. INTRODUCTION**

#### **1.01**

Think Safe is the sole and exclusive owner of all right, title and interest including all intellectual property rights in and to the contents, logos, style, design, look and feel, trade names, trademarks on affiliate website.

#### **1.02**

Think Safe intends to sell and distribute the Product electronically using, in part, third party affiliates who will establish links to Think Safe's Web site where the Product will be offered for sale.

#### **1.03**

If, in the future, Think Safe sells and distributes any other goods or services through the Internet, it shall offer to its affiliates at that time the opportunity to become vendor-affiliates of such goods or services. Such goods or services shall be included in the defined term "Product" and this Agreement shall then also apply to such goods or services.

### **ARTICLE 2. PARTICIPATION & REPRESENTATION**

#### **2.01**

Think Safe hereby grants to the Affiliate the non-exclusive and revocable right to market and advertise the Product and to establish links to Think Safe's Web site, the whole in accordance with this Agreement.

#### **2.02**

The Affiliate shall diligently and continuously market and advertise the Product through the Internet and shall develop, operate and maintain links from its site to Think Safe's site at its sole cost and expense.

#### **2.03**

The Affiliate represents and warrants to Think Safe that this Agreement has been duly and validly executed and constitutes and shall continue to constitute a legal obligation, enforceable in accordance with its terms.

## **ARTICLE 3. AFFILIATE SALES COMMISSIONS**

### **3.01**

If, as a result of a direct advertising effort of the Affiliate, a referred customer of the Affiliate or of a member of the Affiliate's team (as defined) orders and pays for the Product sold by Think Safe in the future, Think Safe shall pay the Affiliate a sales commission determined in accordance with the Affiliate Compensation Schedule which follows this Agreement and which forms an integral part of it. The commission is based upon the paid selling price of the purchased Product before tax and excluding returns ("Sales Commission").

### **3.02**

An Affiliate can earn a First-Purchase Sales Commission, a Repeat-Purchase Sales Commission or a Commission on Total Team Earnings, the whole as described in the Affiliate Compensation Schedule. An Affiliate shall not, directly or indirectly, convert or attempt to convert a Repeat-Purchase Sales Commission into a First-Purchase Sales Commission. An Affiliate shall not receive a Sales Commission for a Product purchase made, directly or indirectly (ex., via an intermediary for the purpose of collecting a commission), by him/herself. An Affiliate's Team means all Affiliates introduced to the Program by the Affiliate in question. In the event that more than one Affiliate claims the same commission for a sale, Think Safe shall select the Affiliate which shall receive the compensation.

### **3.03**

The Affiliate shall be responsible for all taxes and other similar levies applicable to the Sales Commission pursuant to any law or regulation. The Affiliate shall report the Sales Commission to its taxation authorities as required by law.

### **3.04**

Think Safe shall post and maintain, on a current basis, a report for each Affiliate showing the Affiliate's participation in the Program including number of potential customers referred by it and an estimate of the Sales Commission owing to it. Think Safe shall, on or about the 15th of each month, mail or otherwise transmit the Sales Commission representing the amount payable for the sales completed in the previous month. Think Safe reserves the right to delay sending payment for one month, in exceptional cases up to two months, to prevent suspected cases of affiliate fraud. Think Safe shall only pay a single commission to that Affiliate for any given sale that is attributed to the Affiliate. Sales statistics of the referred transactions, supporting the amount paid, shall be made available by Think Safe. Affiliates will receive the Sales Commission in US dollars. For administrative convenience, if the Sales Commission is less than 50 US dollars in a month, it shall be mailed during a subsequent month. The Affiliate may receive the Sales Commission where the amount in question is less than 50 US dollars by advising Think Safe and assuming Think Safe's cost of making the payment.

## **ARTICLE 4. AFFILIATE SITES AND PROMOTION METHODS**

### **4.01**

The Affiliate shall be solely responsible for all materials that appear on its site. It shall strictly adhere to all applicable laws and regulations in conducting its business and more specifically in

marketing and advertising the Product. The Affiliate understands and agrees to comply with the guides outlined in the FTC'S "Guides Concerning the Use of Endorsements and Testimonials and Advertising" (<http://ftc.gov/os/2009/10/091005revisedendorsementguides.pdf>). Affiliates shall not make misrepresentations about the Product and shall acknowledge the affiliate nature on any promotions of the Product. Without restricting the generality of the foregoing, the Affiliate shall not violate the intellectual property rights of others (ex., copyright, trademark, etc.), nor send unsolicited e-mail and shall not send e-mail or any other communication to a recipient if the recipient has requested that it discontinue such communication, nor shall it send or display on its Web site any material that may be considered to be harassing, libelous, defamatory, legally obscene or pornographic, threatening, abusive or hateful, nor shall the Affiliate do anything that may be considered (by Think Safe in its sole judgment) as detrimental to Think Safe's reputation.

#### **4.02**

Think Safe shall have the right, but not the obligation, to pre-approve the graphics and logos used on any Web site which is linked to its site. Furthermore, the Affiliate shall annotate its site with appropriate copyright, trademark and other similar notices, which shall be approved by Think Safe. If the Affiliate specifies a price point for the Product in its marketing and advertising, it shall ensure that it is updated regularly to reflect all price changes.

#### **4.03**

Think Safe shall have the right to monitor the Affiliate's Web site at any time and from time to time to determine if it is in compliance with the terms and conditions on this Agreement.

#### **4.04**

Think Safe shall have the right, but not the obligation, to help the Affiliate promote its products more effectively.

#### **4.05**

The Affiliate agrees not to use any predatory advertising methods designed to generate traffic from sites that they have not contracted with in the online promotion of Think Safe's Product or affiliate program. Predatory advertising is defined as any method that creates or overlays links or banners on web sites, spawns browser windows, or any method invented to generate traffic from a web site without that web site owner's, knowledge, permission, and participation. Examples include, but are not limited to, keyword parsing browser plugins, banner replacement technology, and browser spawning technology that is not web site dependent.

**Participation in predatory advertising programs will be cause for the affiliate's immediate termination, with loss of any amounts owing.**

### **ARTICLE 5. ORDER PROCESSING**

#### **5.01**

Think Safe shall establish the procedures of selling the Product including, without limitation, the placement of orders, pricing, payment terms, processing, delivery, returns etc. Without restricting the generality of the foregoing, Think Safe shall have the right to cancel, suspend or delay any order for the Product, including the right to discontinue to sell the Product at any time.

## **ARTICLE 6. LICENSES AND GOODWILL PRESERVATION**

### **6.01**

Think Safe shall have the right, but not the obligation, to approve, in its sole and absolute discretion and with due regard to the protection and preservation of the goodwill of the Product any promotional, advertising or marketing item used by the Affiliate. The Affiliate shall make all deletions and modifications suggested by Think Safe on any site where the Product is mentioned.

### **6.02**

The Affiliate shall acknowledge and clearly identify and respect that all proprietary information, trademarks, copyrights and all other similar rights in and arising out of the Product are, and shall continue to be, the exclusive property of Think Safe. In the event the Affiliate learns of any claim or allegation that the Product infringes upon or violates any intellectual property or proprietary rights of a third party, or contains any unlawful, libelous, or untrue statement, it shall immediately notify Think Safe so as to enable Think Safe to defend, settle or otherwise resolve the claim or allegation in a manner that Think Safe deems appropriate in its sole discretion.

### **6.03**

Customers who purchase the Product through the Program shall be deemed to be customers of Think Safe, and the Affiliate shall refer all Product-related questions, requests or queries to Think Safe. Think Safe shall have the right to utilize the Affiliate's name and logo to advertise, market, promote and publicize in any manner the Product.

### **6.04**

The Affiliate shall not make or give to a customer or a potential customer any warranty, representation or other statement concerning the Product without first obtaining the written consent of Think Safe.

## **ARTICLE 7. RELATIONSHIP OF PARTIES**

### **7.01**

While the parties shall work hand-in-hand for the benefit of both, the parties acknowledge and agree that the Affiliate shall, from a legal perspective, act as and shall be an independent contractor and not an employee or agent of Think Safe. Nothing in this Agreement shall create a partnership, joint venture, agency, or franchise between the parties in the legal sense of these terms. The Affiliate shall not sign any document in the name of or on behalf of Think Safe nor shall it hold itself out as being an agent of Think Safe or as having apparent authority to contract for or bind Think Safe.

## **ARTICLE 8. LIMITATION OF LIABILITY**

### **8.01**

In no event shall Think Safe be liable for special, incidental, consequential or punitive damages, including, without limitation, any damages resulting from loss of profits, loss of business or loss of goodwill arising out of or in connection with this Agreement or the Product, whether or not such party has been advised of the possibility of such damages. Think Safe shall not be liable for

any damages if, for any reason whatsoever, its Web site fails or is non-operational for any reason whatsoever.

## **ARTICLE 9. TERM OF THE AGREEMENT**

### **9.01**

In the event that the Affiliate breaches any of the undertakings or obligations set forth in this Agreement and does not remedy same within 7 days notice from Think Safe, it shall automatically forfeit the Sales Commission then receivable or receivable at any time in the future. Think Safe shall, in addition, have the right to terminate this Agreement and shall retain all other rights and remedies available to it at law or in equity.

### **9.02**

Think Safe shall have the right but not the obligation to terminate this Agreement with an Affiliate who does not maintain a valid e-mail address with Think Safe (Think Safe tracks all bounces of communications and automatically terminates any affiliate whose e-mail address is not valid). Think Safe shall have the right but not the obligation to terminate this Agreement if the Affiliate ceases to actively market the Product for a period of 90 days. Think Safe shall have the right but not the obligation to terminate this Agreement with an Affiliate who fails to make a non-refunded, First-Purchase Sales Commission during a 3-month period prior to such decision to terminate. In such cases, the Sales Commission owing, representing the sums earned shall be paid even after termination of this Agreement. **The Affiliate shall have the right to terminate this Agreement at any time upon written notice to Think Safe.**

### **9.03**

As soon as notice of termination of this Agreement is given or upon termination as herein provided, the Affiliate shall immediately cease its marketing and advertising of the Product and shall forthwith eliminate all mention and references to the Product and all links to Think Safe. Pending the completion of the foregoing, Think Safe may hold in abeyance the Sales Commission.

## **ARTICLE 10. MODIFICATION AND APPLICATION OF AGREEMENT**

### **10.01**

Think Safe may, in good faith, modify any of the terms and conditions contained in this Agreement (including the Affiliate Compensation Schedule), at any time and in its sole discretion, by posting a change notice or a new agreement on its Web site. If any modification to this Agreement is not acceptable to the Affiliate, its only recourse is to terminate this Agreement. The Affiliate's continued participation in the Program following the said posting of a change notice or new agreement shall constitute binding acceptance by the Affiliate of the change.

### **10.02**

If any of the provisions of this Agreement are determined by a court to be unenforceable, they shall be severed from this Agreement, and the remaining provisions shall remain in full force and effect.

### **10.03**

The Affiliate shall not assign, transfer or convey this Agreement or any part thereof to any other party without Think Safe's consent which shall not be unreasonably refused.

### **10.04**

This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective heirs, legatees, executors, legal representatives, successors and assigns.

### **10.05**

This Agreement represents the entire agreement between the parties and supersedes all prior negotiations, agreements and understandings, if any. For greater certainty but without restricting the aforementioned, information contained in any of the following shall not form part of this Agreement, namely: descriptions of the Program (including the descriptions of Sales Commission payable to the Affiliates) on Think Safe's Web site(s); e-mail communications from Think Safe or from any of its employees, officers or directors; in the Product, or in marketing/informational documents.

## **ARTICLE 11. INDEPENDENT INVESTIGATION**

### **11.01**

The Affiliate acknowledges that it has reviewed this Agreement and agrees to all its terms and conditions. The Affiliate understands that Think Safe may at any time solicit customer referrals on terms that may differ from those contained in this Agreement or operate Web sites that are similar to or compete with the Affiliate's Web site. 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 set forth in this Agreement.

## **ARTICLE 12. MISCELLANEOUS PROVISIONS**

### **12.01**

Any reference in this Agreement to gender includes all genders and words importing the singular number only shall include the plural and vice versa.

### **12.02**

The insertion of headings and the division of this Agreement into Articles and Sections are for convenience reference only and are not to affect its interpretation.

### **12.03**

Each of the parties hereto covenants and agrees that it shall execute and deliver such additional agreements and documents and do such acts and things as may be reasonably necessary fully and effectually to carry out the intent and purpose of this Agreement.

### **12.04**

Time shall be of essence of this Agreement.

**12.05**

All notices, requests and other communications shall be deemed to have been received when posted by Think Safe on its Web site. It shall also be deemed to have been received on the next business day if transmitted by fax, e-mail or any other form of electronic mail to the last known electronic address of the intended recipient.

**12.06**

This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa and the applicable laws of the United States and all disputes concerning this Agreement and the obligations assumed by the parties shall be resolved before such courts. The parties have required that this Agreement and related documents be drafted in English.

**AFFILIATE COMPENSATION SCHEDULE**

This Compensation Schedule is in effect. An Affiliate can earn 15% commissions on each product sold at Affiliate website price. Further commissions can be obtained with higher volume sales.