

## **AFFILIATE AGREEMENT**

Read below for affiliate rules relating to all of our promotions.

Dear Affiliate,

By participating in ANY Positively Success promotions, you agree to the following Terms and Conditions (the "Agreement"). You also understand our company's general privacy policy and terms of use as listed here. If you do not agree to or understand any of the language in this Agreement then do not sign up or participate in any of our promotions, period.

We LOVE our affiliates, and we want you to succeed in our promotions. We also want to serve our clients with 100% integrity and compliance with all laws, including EC and FTC guidelines. We expect you to conduct yourself as an affiliate with professionalism and care for your customers, which is why we've detailed these Terms and Conditions for you. We also wanted you to understand all of the prizes and payments associated with our promotions, so watch for additional information related to any of our specific promotions. Each promotion is unique and time-bound, so watch your email for full details related to each launch.

Please read this entire agreement before participating in our launches. It will help you!

Thanks for all your support!

Sue Wilhite

CEO, Positively Success

### **Affiliate Agreement Terms & Conditions**

By participating in the marketing launch (the "Promotion") of any of our products or programs (the "Product") conducted by Positively Success (the "Promoter") you (the "Affiliate") agree to the following Terms and Conditions (the "Agreement").

#### *ELIGIBILITY*

Affiliate must be 18 years or older to participate in Promotion. Promoter reserves the unconditional right to accept or deny any Affiliate who enters the Promotion on the Promoter's website at <http://www.trust-your-gut.com/affiliates> (the "Enrollment Site") or who drives traffic to any of the Promoter's marketing websites (the "Sites").

Affiliate must be in good standing with the Federal Trade Commission (the "FTC"), the European Commission (the "EC") and the Promoter, and in compliance with all FTC and EC guidelines and the terms and conditions of this Agreement.

Affiliate agrees and understands that if her/his marketing, websites, emails or any

other communications associated with or for this Promotion are deemed inappropriate that Affiliate will be deemed, at the sole discretion of the Promoter, ineligible to participate in the Promotions and disqualified from receiving any recognition, commissions, prizes or any other compensation or further communication from the Promoter.

Affiliate will be immediately removed from all Promotions and from Promoter's Affiliate Program — resulting in a forfeiture in all contests and commissions — and will be in violation of this Agreement IF her/his marketing for this Promotion or for her/his own sites:

- contains, promotes or links to sexually explicit or violent material;
- promotes, depicts or links to material that promotes or depicts discrimination based on race, gender, religion, national origin, physical or mental disability, sexual orientation, or age;
- contains unlawful material, including but not limited to materials that may violate another's intellectual property rights, or links to a site that contains such material;
- contains information regarding, promotes or links to a site that provides information or promotes illegal activity; or
- uses Promoter's videos, images, banners, likeness, or brand name in or on their websites, thus creating market and consumer confusion (which is illegal and generally referred to as copyright or trademark infringement). To be clear, you may not use our banners, images or videos, unless specifically supplied to you, as if they are your own on your own sites or any other sites, as it may cause a customer to opt-in thinking they are opting in to our communications rather than yours. Clearly, the best practice to generate sales is to establish your own brand, identity, and sites, then to authentically recommend our program, not pretend to be us.
- uses any "bots" or automated link generating, spamming, or social media spamming techniques to perpetuate their links automatically or anonymously. You should only participate in this competition by sending your link directly to your email list, your social media contacts, or through ads you have placed that comply with all the rules on this page.
- defames, slanders, or posts rude or inappropriate comments about Promotor or any public figure or member of the specialists community. Any rude communication with Promotor's staff also warrants termination of the affiliate agreement and a forfeiture of all standings, prizes, and commissions.
- uses any of our brands in the root of a URL link. This means you cannot use, for example, "suewilhite" or "trustyour gut" in your website domain before the (dot), like this: [www.suewilhite.com](http://www.suewilhite.com). However, this would be okay: [www.YourSite.com/suewilhite](http://www.YourSite.com/suewilhite) or [www.YourSite.com/TrustYourGut](http://www.YourSite.com/TrustYourGut). So, to be clear, you cannot have any of our brand names, or any misspelling or alternative use/spelling of our brand names, before the (dot)

in .com, .org, etc. Other examples:

NOT OK: [www.suewilhitereview.com](http://www.suewilhitereview.com)

OK: [www.YourSite.com/suewilhitereview](http://www.YourSite.com/suewilhitereview)

NOT OK. [www.Positively-Success.com](http://www.Positively-Success.com)

OK: [www.YourSite.com/PositivelySuccess](http://www.YourSite.com/PositivelySuccess)

- for any other reason that is deemed by us to be unsuitable by the Promoter. Promoter reserves the right to disqualify Affiliates from our Affiliate program, cancel pending commissions based on inappropriate behavior or marketing by the Affiliate, and to amend this Promotion or Agreement at any time without notification to Affiliate.

### *SPAM AND UNSOLICITED EMAIL*

Affiliate agrees NOT to send any unsolicited email to any party during the Promotion. Promoter has ZERO tolerance toward any Affiliate who spams any party or individual, period. If Affiliate is caught spamming by “bots” or automated or anonymous social media posting, she/he will be removed from the Promoter’s Affiliate Program, and her/his commissions or pending commissions will be canceled and/or forfeited. Spam is defined as emailing or posting to anyone who has not requested information via email or any website, and also includes “spamming search engines” or social media with links. Affiliate agrees to abide by all Federal Trade Commission and European Commission Guidelines and the U.S. Federal Can-SPAM Act.

### *EARNINGS DISCLAIMER*

We’ve taken every effort to ensure we accurately represent our Promotion and its potential to help you earn commissions, as described below. However, there is no guarantee that you will get any results or earn any money whatsoever during this Promotion, and we do not purport this as a “get rich scheme.” Nothing on our Sites or in this Promotion is a promise or guarantee of earnings. Your level of success in attaining results is dependent upon a number of factors including your skill, knowledge, ability, dedication, business savvy, network, list, and financial situation. Because these factors differ according to individuals, we cannot guarantee your success, income level, or ability to earn revenue. You alone are responsible for your actions and results in life and business. Any forward-looking statements outlined on our sites or in our Promotions are simply our expectations or forecasts for future potential, and thus are not guarantees or promises for actual performance. These statements are simply our opinion. As stipulated by EC and FTC law, we make no guarantees that you will achieve any results from our ideas or Promotion and we offer no professional legal or financial advice.

### *COMMISSIONS*

Affiliate will receive the posted dollar/euro amount of commission for every sale she/he refers during the Promotion Period only that is directly referred by the Affiliate to the Promoter's Site through the Affiliate's unique link or cookie. This ONLY includes sales that are driven from the Affiliate to the Promoter's sales sites and as tracked through the Affiliate's unique link provided by the Promoter or the cookie resulting from that link.

Commissions are not paid on, and will not include, a single sale to the Affiliate themselves, meaning Affiliate cannot purchase the Product for their own use through their link and receive a commission on that sale. Affiliate commissions are counted and final numbers are deemed final at the sole discretion and decision of the Promoter.

The minimum payment for commissions is \$25; i.e., you must have accumulated at least \$25 in commissions to be paid in any 45-day period.

Commission payments will be sent to Affiliate by the Promoter via PayPal once every 45 days . This allows time for accounting after Promoter's 30-day satisfaction guarantee policies. If any product or program allows multiple monthly payments by customers who purchase the Product, Affiliate should expect to receive 50% of each collected monthly payment every 45 days until the customer has paid the Promoter in full for the Product. If a sale is canceled or refunded for any reason, any paid commission will be deducted from the amount owed to the Affiliate and any subsequent payment. Affiliate commissions will not be paid based on any sales or amounts that are attributed to spam, credit card fraud, or returned Product. Promoter reserves the right to change the dates of the commission payout.

Affiliates are responsible for their own taxes according to their respective country tax legislation. **However, due to US tax rules, we must collect your Social Security Number or TIN to be able to send you a tax form W-9 at the end of the calendar year.**

US affiliates: You can fill out a W-9 form online and print it out here:

<http://www.irs.gov/pub/irs-pdf/fw9.pdf>

For non-US affiliates, please use <http://www.irs.gov/pub/irs-pdf/fw7.pdf>

Promoter is NOT responsible for Affiliate using or maintaining her/his affiliate links and only sales tracked through the Promoter's system will count towards the Affiliates commissions. All sales and commission numbers are tallied by the Promoter and credit due to the Affiliate and all the final sales and commission numbers are at the sole discretion of the Promoter. Promoter makes every reasonable effort to accurately track and pay commissions for all sales that come from Affiliates, but it not responsible nor under any circumstances will be held liable for any technical difficulties, outside events, actions by other affiliates, or other uncontrollable events that may disrupt or interfere with Promoter's ability to do track sales or pay commissions. Under no circumstances will Promoter be held

liable for any indirect, incidental, special or consequential damages or any loss of revenue or profits that result from Affiliate's participation in this Promotion.

Affiliate will not receive any commission or revenue on clients driven to the Promotion or Promoter following the Promotion Period. Commissions are solely available for this Promotion under this Agreement.

## *LINKS*

Promoter will provide Affiliate with Links to this Promotion as well as any related banners, graphics, or text ads necessary to promote and offer the Product to the Affiliate's customers via the Affiliate's Sites or emails. **Affiliate may ONLY utilize their unique link provided by the Promoter on the Affiliate's own websites or emails. Affiliate may NOT post their Link on other websites that are not owned or maintained by the Affiliate or the Affiliate's brand, with the exception of ads or to their social media connections.** Spamming the internet with automated or anonymous links outside of Affiliate's direct email list, websites or social media pages will be considered a violation of this Agreement and result in a denial of all Affiliate benefits, prizes and commissions. Affiliate may not use unsolicited commercial email, spam, search engine spam, or other illegal or unethical means by which to generate referral commissions. Affiliate may also not purchase the Product through their link for personal use and receive a commission on that sale. Links are intended to drive new customers to the Promotion. All customer information collected during the Promotion shall be owned by the Promoter and it is at the sole discretion of the Promoter whether or not the customer information will be shared with the Affiliate. All information collected before, during and after the Promotion will be managed under the Privacy Policy of the Promoter as listed on its Privacy Policy page.

## RESTRICTIONS

Affiliate may not use ANY copyright, trademark, service mark, or general branding of the Promoter without full disclosure and permission of the Promoter.

Affiliate may **not**:

- a) read, intercept, record, redirect, interpret, or fill in the contents of any electronic form or other materials submitted to Promoter by any person or entity;
- b) take any action that could reasonably cause any customer confusion as to Affiliate's relationship with Promoter, or as to the site on which any functions or transactions (e.g., search, order, browse, and so on) are occurring;
- c) frame the Affiliate's website to look like the Promoter's website or to utilize the Promoter's branding in anyway that would confuse customers or the general public as to who is hosting or promoting such a website;
- d) seek to purchase or register any keywords, search terms or other identifiers related to the trademarks of the Promoter or the trade or service marks or names

of Promoter's primary competitors, including misspellings or variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Promoter;

e) seek to purchase or register any domains or other identifiers that include variations on the trade or service marks or names of the Promoter intended to approximate misspellings or typographical mistakes of same or which otherwise would constitute typo or domain squatting, including variations thereof for use in any search engine, portal, sponsored advertising service or other search or referral service unless otherwise agreed to by the Promoter; or

f) spam automated or anonymous links to social media pages or search engines.

Promoter may cancel the Affiliate's participation in this Promotion, withhold or cancel commissions, or take any other action at its sole discretion should Affiliate conduct any of the behavior above or fail to operate with integrity or within the guidelines of the EC and FTC.

### *RELATIONSHIP OF PARTIES*

Nothing in this Agreement shall be deemed to create a partnership, joint venture, agency relationship, or employment relationship between the Parties. Affiliate is participating in the Promotion as a fully independent entity and is responsible for any and all EU, federal, local, and/or foreign income taxes and self-employment taxes, and any and all other EU, federal, state, and local licensees, fees or taxes, or sales tax, including withholding taxes, social security taxes, and public liability and workman's compensation insurance. Under no circumstances will Promoter be held liable for any actions or results of the Affiliate.

### CONFIDENTIALITY

Affiliate hereby agrees not to share, use, copy, adapt, alter, distribute, duplicate, or part with possession of any of the Promoter's confidential information which is not directly provided or approved by the Promoter, or any confidential information that is disclosed or otherwise comes into its possession under or in relation to this Agreement. Confidential information includes, but is not limited to, the following types of private information and other proprietary information of a similar nature regarding the Promoter's business: sales figures, software passwords, Promoter list size, list contents, ideas, stories, activities, curriculum, seminar format, presentation materials, presentation content, inventions, financial information, business plans, business processes, marketing plans, marketing strategies, marketing copy, financial projections, customer lists, customer financial information, personal information of executives, sponsorship strategies, relationships with other vendors, media delivery concepts and systems, including, but not limited to, web-based delivery systems, technical data, software designs, drawings, specifications, models, source code, object code, documentation, diagrams, flow charts, and other similar information that is proprietary to and confidential information of the Promoter.

Affiliate shall not disclose his/her terms of this Agreement to any third party other than to the Affiliate's employees and agents who (a) have a need to have access to such information (b) agree in writing to comply with the confidentiality provisions of this Agreement.

This Agreement imposes no obligation of confidentiality on Affiliate with regard to any portion of Promoter's confidential information:

- (a) that is part of the public domain at the time of disclosure; or
- (b) that becomes part of the public domain after the Promotion without any unauthorized act by or omission of Affiliate; or
- (c) if Affiliate can demonstrate by written records that he/she had independently developed knowledge of such confidential information prior to the date of disclosure; or
- (d) if permission to use or disclose said confidential information is first obtained by Affiliate in writing from Promoter; or
- (e) if Affiliate is required by law, regulation, rule, act, or order of any court or other government authority or agency to disclose such confidential information.

In general, Affiliate may not disclose any financial, personal, or business information about the Promoter or its executives (including Founder Sue Wilhite) without permission from the Promoter. Such disclosure is grounds for legal action, equitable relief, and termination of this Agreement.

#### *INDEMNIFICATION AND LIABILITY*

Affiliate agrees to indemnify and hold harmless the Promoter and the Promoter's Founder, Sue Wilhite, an individual, from and against any and all losses, claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable attorney fees) which Affiliate may be subject to or incur in connection with the Promotion to be rendered, except those claims that are judicially determined to have resulted from Promoter's gross negligence or willful misconduct. Under no circumstances will Promoter or Sue Wilhite or their assigns be held liable for Affiliate's injury or death or any loss or damage of personal belongings or earnings resulting from its providing of the Promotion or from Affiliate's participation in any of its promotions, galas, seminars or live events ("Events") should the Affiliate attend them. Affiliate hereby accepts all risk to its health including injury or death that may result from participating in any Promoter Events and hereby releases Promoter, Sue Wilhite, and their officers, employees, interns, Affiliates, sponsors and representatives from any and all liability to his or herself and their personal representatives, estate, heirs, next of kin, and assigns for any and all claims and causes of action for loss of or damage to Affiliate's property and for any and all illness or injury to Affiliate's person, including death, that may result from or occur during Affiliate's participation at the Events, whether caused by negligence of the Promoter or its representatives. Affiliate acknowledges and agrees to be financially responsible for any medical or legal

bills that may be incurred as a result of participation in the Promotion or Events including any financial loss or emergency medical treatment. Affiliate understands that Promoter does not give legal or financial advice and under no circumstances will be held liable for results related to the Promotion or Events

#### *TERMINATION*

The relationship between the Parties may be terminated immediately by either party. Upon termination, it is understood that the Confidentiality and Indemnification clauses above will remain in effect for perpetuity.

#### *ENTIRE UNDERSTANDING AND DISPUTE*

This Agreement constitutes the entire understanding of the Parties and may be modified only by the Promoter. This Agreement shall be construed and interpreted according to the laws of the United States and shall be binding upon the parties hereto, their heirs, successors, assigns, and personal representatives; and references to the Promoter and to the Affiliate shall include their heirs, successors, assigns, and personal representatives. In the event of a dispute between the Parties regarding this Agreement, any such disputes, controversies and claims arising out of or relating to this Agreement, it shall be settled and determined by arbitration. Any arbitration needed will be conducted in San Jose, California, USA. The parties further agree that the arbitration shall be conducted before a three panel arbitration board wherein each party to this agreement selects one arbitrator and those selected arbitrators select a third arbitrator. The decision of the arbitration shall be final and each party agrees to be bound by the arbitration board.

#### *SEVERABILITY*

If any provision or covenant, or part thereof, of this Agreement should be held by any court or other legitimate tribunal with appropriate jurisdiction to be invalid, illegal or unenforceable, either in whole or in part, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of the remaining provisions or covenants, or any part thereof, of this Agreement, all of which shall remain in full force and effect.

#### *CONTACT*

Promoter may be contacted at oracle22 at positivelysuccess dot com or by mail at its address: Positively Success 1669-2 Hollenbeck Ave #119, Sunnyvale, CA 94087 USA