



# **AFFILIATE PROGRAM TERMS AND CONDITIONS**

REV. FEB07

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# **1. AFFILIATE AGREEMENT**

Welcome to the IndexGuy Affiliate Agreement ("Agreement"). This Agreement sets forth the terms and conditions under which indexguy.com makes the IndexGuy Affiliate Program ("Affiliate Program") available to you. By becoming an IndexGuy Affiliate and using the Affiliate Program you expressly agree to be bound by and follow all terms and conditions set forth in this Agreement. If you do not agree to be bound by this Agreement, your sole recourse is not to participate in the Affiliate Program.

IndexGuy.com reserves the right to add, delete and/or 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 the IndexGuy.com Web Site. In the event of substantive changes to the terms of this Agreement, you may be notified by email. If any modification is unacceptable to you, your only recourse is to terminate this Agreement and your participation in the Affiliate Program. Your continued participation in the Affiliate Program following posting of a change notice or new agreement on the IndexGuy.com Web Site will constitute binding acceptance of the changes.

## **1.1 GENERAL RULES**

The IndexGuy.com Terms of Service and the IndexGuy.com Privacy Policy are incorporated herein by this reference. As an Affiliate you will continue to be bound by the IndexGuy.com Terms of Service and the IndexGuy.com Privacy Policy. For purposes of clarity, the Affiliate Program is deemed part of the " IndexGuy.com Services," and all initially-capitalized terms not defined in this Agreement shall have the meaning set forth for such term in the Terms of Service and/or the Privacy Policy, and any disputes you may have resulting from your participation in the Affiliate Program will be subject to confidential binding arbitration in accordance with Terms of Service. In the event of an inconsistency between this Agreement and the IndexGuy.com Terms of Service this Agreement shall control.

## **1.2 BECOMING AN INDEXGUY AFFILIATE**

1.2.1 Eligibility. IndexGuy.com will only knowingly provide the Affiliate Program to parties that can lawfully enter into and form contracts under applicable law. If you are under the age of 18, but at least 13 years of age, you may participate in the Affiliate Program only under the supervision and consent of a parent or legal guardian who agrees to be bound by this Agreement. The Affiliate Program is not intended for children under the age of 13.

1.2.2 Opening an Account. To become an Affiliate and have the right to participate in the Affiliate Program, you must enroll in the Affiliate Program by opening an Affiliate account ("Account") with IndexGuy.com through an electronic form that will be emailed to you.

1.2.3 Contact Information. You must provide IndexGuy.com with accurate and complete contact and payment (PayPal) information when you open an Account. You must immediately notify IndexGuy.com if any of your contact or payment information changes. If you do not provide

IndexGuy.com with complete, accurate, and updated contact information, you may not be eligible to receive commissions based on your participation in the Affiliate Program.

1.2.4 Account Security. You will need to select a password if you open an Account. You will be solely and exclusively responsible for keeping your password confidential and all use of your password and Account, including, without limitation, any use by any third party. You must notify IndexGuy.com immediately if you believe your password has been or may be obtained or used by any unauthorized person or entity. In addition, you must notify IndexGuy.com immediately if you become aware of any other breach or attempted breach of the security of your Account or the IndexGuy.com Service.

### **1.3. YOUR OBLIGATIONS**

1.3.1 You must use the Affiliate Program in a manner that demonstrates common sense and respect for the rights of IndexGuy.com and third parties.

1.3.2 Special Links. As a member of the Affiliate Program, IndexGuy.com will provide you with special "tagged" link formats ("Special Link(s)") to be used in linking to the IndexGuy.com Web Site. The Special Links will permit tracking, reporting, and commission calculations. You must ensure that each of these links properly utilize the Special Link formats. You will only earn commissions on activities occurring on the IndexGuy.com Web Site if such activity was originated from properly formatted Special Links. IndexGuy.com will not be liable to you for any failure by you to use Special Links, including to the extent that such failure may result in any reduction of amounts, which may otherwise be paid to you pursuant to this Agreement.

1.3.3 Use of Special Links. IndexGuy.com will provide you with the Special Links and graphical artwork to use in linking to the IndexGuy.com Web Site. You must use the Special Links in accordance with the terms and conditions in this Agreement.

### **1.4. CUSTOMERS PURCHASING VIA THE AFFILIATE PROGRAM.**

1.4.1 Order Processing and Reporting. IndexGuy.com will process all product orders placed by customers who follow Special Links to the IndexGuy.com Web Site ("Customers"). IndexGuy.com reserves the right to reject orders that do not comply with any requirements that IndexGuy.com has and may periodically establish. IndexGuy.com will be responsible for all aspects of order processing and fulfillment. Among other things, IndexGuy.com will prepare order forms, process payments and handle customer service. IndexGuy.com will track sales made to Customers who purchase products using Special Links from your web site to the IndexGuy.com Web Site and will make available to you reports summarizing sales activity. IndexGuy.com will use commercially reasonable efforts to present accurate information in the reports, but IndexGuy.com cannot guarantee the accuracy of the reports.

1.4.2 Customers. Customers who buy products through the Affiliate Program will be deemed to be customers of IndexGuy.com. Accordingly, all of the IndexGuy.com rules, policies, and operating procedures concerning customer orders, customer service and product sales will apply to those Customers. IndexGuy.com may change the IndexGuy.com policies and operating procedures at any time. Product prices and availability may vary from time to time, and such price changes may affect products that you already have listed on your web site. IndexGuy.com

will use commercially reasonable efforts to present accurate information, but IndexGuy.com cannot guarantee the availability or price of any particular product.

## **1.5. AFFILIATE COMMISSIONS AND REPORTING.**

1.5.1 Affiliate Commissions. IndexGuy.com will pay you commissions in accordance with this Agreement and the Affiliate Commission Schedule ("Commissions"). The Affiliate Commission Schedule is incorporated herein by this reference. IndexGuy Affiliates can earn commissions on the following types of transactions:

(a) IndexGuy.com will pay you a commission on qualifying sales originating from Special Links on your web site or web space in accordance with the then current Affiliate Commission Schedule; and

(b) IndexGuy.com will also pay you a commission on monthly subscription fees that Customers referred by the Affiliate pay to IndexGuy.com. Rates and Payment terms are explained in the next pages, in the 'Commission' section.

1.5.2 Payment of Commissions.

(a) PayPal Information. In order to receive your Commissions you must provide your PayPal Account to IndexGuy.com as required

(b) Payment Terms. IndexGuy.com will pay you Commissions on a monthly basis. Within 25 days following the end of each calendar month, IndexGuy.com will pay you through PayPal for the Commissions you have earned for the relevant month. However, if the Commissions payable to you for any month are less than \$50.00, IndexGuy.com will hold your Commissions until the total amount due is at least \$50.00 or until this Agreement is terminated.

(d) Processing Fees. If IndexGuy.com owes you accrued Commissions that are less than \$50.00 for at least 365 days, then IndexGuy.com may send you payment of such accrued Commissions minus a \$5 processing fee. If the amount of accrued Commissions is under \$5 for at least 365 days, such amount will be used to cover IndexGuy.com's administrative costs and no payment will be made to you.

(f) Termination Fees. If you or IndexGuy.com terminate your Account, and you have less than \$50 in accrued but unpaid Commissions then outstanding, IndexGuy.com may charge you a \$5 processing fee when sending you your final payment to cover its administrative costs.

## **1.6. IDENTIFYING YOURSELF AS AN AFFILIATE.**

1.6.1 Logo. IndexGuy.com will make available to you a small graphic image that identifies you as a IndexGuy Affiliate Program participant. You must display this logo or the phrase "In affiliation with IndexGuy.com" somewhere on your web site or web space. IndexGuy.com may modify the text or graphic image of this notice from time to time. In addition, IndexGuy.com encourages (but does not require) you to include a Special Link on your web site to the IndexGuy.com home page at <http://www.indexguy.com>.

1.6.2 All other Communications. Except as provided for in the Affiliate Guidelines, you may not make any press release with respect to this Agreement or your participation in the Affiliate

Program without IndexGuy.com's prior written consent, which may be given or withheld in its sole discretion.

## **1.7. LIMITED LICENSES.**

1.7.1 IndexGuy.com License to You of Logo and Links. IndexGuy.com grants you a limited nonexclusive, nontransferable, revocable right to use the graphic images and text provided to you by IndexGuy.com, for use on your web site or web space, solely for the purpose of identifying your web site or web space as an Affiliate Program participant and to assist in generating Commissions. In addition, IndexGuy.com grants you a limited, nontransferable, nonexclusive, worldwide right to reproduce and use all graphic images and other materials provided to you, solely for the purpose of creating Special Links connecting your web site or web space to the IndexGuy.com Web Site and promoting the sale of products on the IndexGuy.com Web Site. All product images must be served by the IndexGuy.com Web Site and cannot be used in any form other than the form provided by IndexGuy.com. You may not modify the graphic images or text, or any other of the IndexGuy.com images, in any way. IndexGuy.com may revoke your license at any time by giving you written notice. IndexGuy.com reserves all of its rights in the graphic images, text, any other images, IndexGuy.com trade names and trademarks, and all other intellectual property rights. Any and all rights in and to IndexGuy.com's intellectual property shall inure to the benefit of IndexGuy.com.

## **1.8. INDEMNIFICATION.**

As you are bound by the Terms of Service in using the Affiliate Program, you must indemnify, defend and hold IndexGuy.com harmless for any claim arising out of, relating to, or connected with your alleged breach of the Terms of Service in using the Affiliate Program. You must also indemnify, defend, and hold IndexGuy.com harmless based on any claim alleging facts that, if true, would constitute a breach of this Agreement. You also agree that covered claims under this indemnity obligation shall include, without limitation

- (a) any claim that IndexGuy.com's use of any images provided via your web site or web space infringes on any trademark, trade name, service mark, copyright, license, intellectual property, or other proprietary right of any third party; and/or
- (b) any claim related to your web site, including, without limitation, content therein not attributable to IndexGuy.com. IndexGuy.com may withhold any Commissions that it owes you if you have to indemnify IndexGuy.com.

## **1.9. TERM AND TERMINATION.**

1.9.1 Term. The term of this Agreement will begin upon IndexGuy.com's acceptance of your Affiliate Program application and will end when terminated by either party.

1.9.2 IndexGuy.com Termination. In its sole discretion, with or without notice to you, IndexGuy.com may terminate your participation in the Affiliate Program and terminate your Account. If IndexGuy.com determines, in its sole discretion, that you are abusing the system, the IndexGuy.com Service and/or the IndexGuy Affiliate Program, IndexGuy.com may (without limiting any other rights or remedies available to it) withdraw your participation and withhold any Commissions payable to you.

1.9.3 Your Termination. You may terminate your Account for any reason at any time by sending an email at *affiliates@indexguy.com* including the term “Account Termination” to the subject line.

1.9.4 Effect of Termination. You can only earn Commissions during the term of the Agreement, and Commissions earned through the date of termination will remain payable only if the related orders are not canceled or returned. IndexGuy.com may withhold your final payment for a reasonable time to ensure that the correct amount is paid. Upon the termination of this Agreement for any reason, you will immediately cease use of, and remove from your web site, all links to the IndexGuy.com Web Site, product images from the IndexGuy.com database, all IndexGuy.com trademarks, trade dress and logos, all Special Links, and all other materials provided by or on behalf of IndexGuy.com to you pursuant hereto or in connection with the Affiliate Program.

## 2. COMMISSIONS

### 2.1 COMMISSION SCHEDULE

Commission at IndexGuy is recurring. This means that you do not get a single commission upon referral of a new client but as long as this client is subscribed to IndexGuy you get a commission.

Commission rate is not flat. It is flexible. We have currently five affiliate levels. Level is dependant to your AMI. AMI is the Active Monthly Income that you refer to IndexGuy. The following table shows the five affiliate levels.

LEVEL	AMI	COMMISSION
5	\$401+	35%
4	\$201-\$400	30%
3	\$101 - \$200	25%
2	\$51-\$100	20%
1	\$0-\$50	15%

AMI is calculated using the following formulae.

$$\text{AMI} = \text{Sum}(\text{all-active-accounts-that-you-have-referred})$$

So if for example you have just started up as an affiliate partner and you have referred two customers one with a Bronze Account (\$6.95 per month) and one with a Silver Account (\$24.95 per month) your AMI is  $\$6.95 + \$24.95 = \$31.90$  which means that you are an affiliate partner of Level 1 which also means that you have a commission rate of 15%.

By the end of each day a calculation is being performed by the Affiliate Server and a daily commission is added into your account. During the last day of each month the Affiliate Server closes the month for each Affiliate Partner and all daily commissions are summed. You can also get an analysis for your monthly commission.

## **2.2 PAYMENT SCHEDULE**

Payments are being sent to Affiliate Partners during the 1<sup>st</sup> and 15<sup>th</sup> of each month for the prior month. We currently send payments only by PayPal so if you don't have a PayPal account you cannot be an Affiliate Partner of IndexGuy.

There is currently a \$50 release level which means that if your total commission is less than \$50 your money will stay into your account and once the release level is reached we will dispatch the payment.

### **3. SPAM COMPLIANCE STATEMENT**

ALL affiliates are strictly prohibited from sending any email marketing messages including SPAM or UCE (Unsolicited Commercial Email). If you wish to market your affiliate link via email please contact us at Affiliate Support for prior written approval. IndexGuy.com takes spamming very seriously and failure to abide by this rule will result in the termination of your IndexGuy.com affiliate account, and the forfeiture of any outstanding commissions due to you.

IndexGuy.com will also seek indemnification from you should IndexGuy.com experience any financial costs due to your prohibited actions. We appreciate your compliance with this policy.