

This Agreement contains the complete terms and conditions that apply to your participation as an affiliate in the Affiliates Network of Fishing Flies Online and the establishment of links from your affiliate website to our websites "FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com"

### **1. Enrollment in the Affiliate Network:**

First, you need to submit a complete Affiliate Network application online. We will evaluate your application and will notify you of your acceptance or rejection in a timely manner. We may reject your application if we determine (at our sole discretion) that your site is unsuitable for the Affiliate Network for any reason. No commissions will be paid if your application is denied.

### **2. Prohibited Sites**

Prohibited Sites for advertising FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com products services:

- Sites that promote discrimination based on race, sex, religion, national origin, or physical disability.
- Sites that promote illegal activities.

### **3. Spam**

Affiliate agrees to not utilize SPAM in promoting FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com. This action may result in the immediate suspension or termination of Affiliate account with a cancellation of any pending commissions. Affiliate will also be in violation of the Fishing Flies Online Affiliate Agreement and subject to legal action and be held liable for any financial loss incurred by Fishing Flies Online. Any service interruptions to FishingFliesOnline.com , SaltwaterFlyz.com and FishingFlyz.com as a result of Affiliates spamming will be billed to Affiliate at 500 U.S. dollars per hour until service is restored.

For the purpose of this agreement SPAM is defined as emailing ANYONE, in bulk or by single mailing, about FishingFliesOnline.com , SaltwaterFlyz.com and FishingFlyz.com, who has not specifically requested the information directly from Affiliate. The ONLY exceptions to this are:

- a. Mailing to APPROPRIATE OPT-IN mailing lists where the source does the mailing on Affiliate's behalf. However, use extreme caution when choosing an opt-in mailing list company! Using anything but the most reputable sources could generate spam complaints against Affiliate resulting in suspension or termination.
- b. You may include information on FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com in email Acknowledgement Messages for orders and inquiries that you receive so long as it is stated upfront that you will be sending them an acknowledgement.

FishingFliesOnline.com , SaltwaterFlyz.com and FishingFlyz.com also consider ANY type of advertisement about FishingFliesOnline.com SaltwaterFlyz.com

and FishingFlyz.com posted to a Newsgroup or Chat Room to be spam. Violators will be fined at 100 U.S. dollars per incident.

#### **4. Promotion of Our Affiliate Relationship:**

As an Affiliate Site, we will make available to you Buy-the-Flies Links (each of these links sometimes being referred to herein as "Links" or, individually, as a "Link"), URL links, and banners, which, subject to the terms and conditions hereof, you may display as often and in as many areas on your site as you desire. These Links will serve to identify your site as a member of our Affiliate Network and will establish a link from your site to ours.

##### *URL Links:*

Subject to the terms of clause © below, we will provide an Affiliate URL Link, which will consist of a hyperlink that contain the affiliates ID. This URL must be used in order to track Affiate sales.

##### *Buy-the-Fly Links:*

Subject to the terms of clause © below, we will provide you a Buy-the-Fly Link, which will consist of a graphic image provided by us (and subject to change from time to time in our sole discretion) containing the Fishing Flies Online logo and the words "Buy the Fly" or similar words and images. This link will connect your site directly to our website. By utilizing this Link, users of your site will be able to order, directly from us, any flies that are described or referenced on our site.

##### *Agreements Regarding Links:*

In utilizing the URL and Buy-the-Fly Links you agree that you will cooperate fully with us in order to establish and maintain such Links. You also agree that you will display in your site only those graphic images (indicating a Link) that are provided by us, and you will substitute such images with any new images provided by us from time to time throughout the term of this Agreement. All Affiliate Sites shall display such graphic images prominently in relevant sections of their site. All Links may be modified and/or expanded from time to time throughout the term of this Agreement pursuant to the mutual agreement of the parties hereto. Each Link connecting users of your site to the pertinent area of our site will in no way alter the look, feel or functionality of our site. In addition, we encourage (but do not require) you to include a Link to the home page of our site. (in our case, we want most of the links to our home page).

#### **5. Our Responsibilities:**

We will be responsible for providing all information necessary to allow you to make appropriate Links from your site to our site. We will be solely responsible for processing every order placed by a customer following a special Link from your site, for tracking the volume and amount of sales generated by your site, and for providing information to Affiliate Sites

regarding sales statistics. We will be responsible for order entry, payment processing, shipping, cancellations, returns, and related customer service.

## **6. Other Responsibilities and Opportunities of Affiliate Sites:**

If you qualify and agree to participate as an Affiliate Site, you shall display Buy-the-Flies Links prominently throughout your site as you see fit and with our consent.

### *Contests and Promotions:*

- i. As an Affiliate Site, you will be entitled to participate and promote on your site sweepstakes, contests, and special promotions we may offer. In addition, you will be entitled to earn commissions as set forth in sections 7 and 8 below.
- ii. Only offers and promotional tools provided explicitly by FishingFliesOnline.com , SaltwaterFlyz.com and FishingFlyz.com for use on an affiliate site are valid.
- iii. The unauthorized use of promotional offers taken from another website is strictly forbidden and may result in the termination of this agreement.

Compliance with the Agreement: We have the right in our sole discretion to monitor your site at any time and from time to time to determine if you are in compliance with the terms of this Agreement.

## **7. Commission Determination:**

The purchase price of flies will count toward the total sales during the calendar month in which such flies are sold. Only flies that are sold by us (to users of your site linked to our site), shipped to a customer, and for which we have received full payment will qualify for a commission. Commission rates will vary based upon the volume of sales made on your site:

Commission rates will be Ten (10%) percent. Commissions exclude amounts collected by us for sales taxes, duties, gift-wrapping, shipping, handling, and similar charges, amounts due to credit card fraud and bad debt, and credits for returned goods ("Net Sales"). All available flies on our sites will be included in the computation of Net Sales, regardless of whether the flies are a next day delivery, international, or weekend delivery item.

## **8. Commission Payment:**

Subject to clause (b) below, based on Net Sales received by us in connection with sales of flies purchased by your users through a Link to our site, we will send a commission fee check for the applicable commission fee (less any taxes required to be withheld under applicable law) to you approximately forty-five (45) days after the end of each month anniversary of the date of acceptance of your application.

The affiliate will be paid monthly, the first period starting on the date the affiliate is accepted into the network. If the affiliate's commission for any month is less than \$25, the total amount will be carried to the next month. Once commission passes \$25, a check will be sent to the affiliate at the end of the month for the complete amount owed to the affiliate until the end of the month.

#### **9. Reports of Sales:**

You will be given a password and have the ability to enter a password-protected site to receive your sales statistics on a daily basis. To find out more please [click here](#).

#### **10. Your Responsibilities:**

You are solely responsible for ensuring that reviews, descriptions, and articles on your site comply with applicable copyright and other laws. You must have express permission to use another party's copyrighted or other proprietary material. We are not responsible for violations.

#### **11. Policies and Pricing:**

Customers who buy flies through the Affiliate Network will be deemed to be customers of FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com. Accordingly, all of our rules, policies, and operating procedures concerning customer orders, customer service, and sales will apply to those customers. We may change our policies and operating procedures at any time. For example, we will determine the prices to be charged for flies sold under the Affiliate Network in accordance with our own pricing policies. Fly prices and availability may vary from time to time. Because price changes may affect fly that you already have listed on your site, you should not include price information in your fly descriptions.

#### **12. Publicity:**

You shall not create, publish, distribute, or permit any written material that makes reference to us without first submitting such material to us and receiving our written consent, which we agree shall not be unreasonably withheld.

#### **13. Licenses and Use of the FishingFliesOnline.com , SaltwaterFlyz.com and FishingFlyz.com Logos and Trademarks:**

WE GRANT YOU A NON-EXCLUSIVE, NON-TRANSFERABLE, REVOCABLE RIGHT TO (i) ACCESS OUR SITE THROUGH THE LINKS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND (ii) SOLELY IN CONNECTION WITH SUCH LINKS AND UNDER THE CONDITIONS PROVIDED FOR HEREIN, TO USE OUR LOGOS, TRADE NAMES, TRADEMARKS, AND SIMILAR IDENTIFYING MATERIAL RELATING TO US (COLLECTIVELY, THE "LICENSED MATERIALS"), FOR THE SOLE PURPOSE OF SELLING FLIES ON YOUR SITE FOR

FSIHINGFLIESONLINE.COM , SALTWATERFLYZ.COM AND FISHINGFLYZ.COM. YOU MAY NOT ALTER, MODIFY, OR CHANGE THE LICENSED MATERIALS IN ANY WAY WITHOUT WRITTEN PERMISSION. YOU ARE ONLY ENTITLED TO USE THE LICENSED MATERIALS WHILE YOU ARE A MEMBER IN GOOD STANDING OF THE AFFILIATES NETWORK.

You shall not make any specific use of any Licensed Materials for purposes other than selling flies on your site for FishingFliesOnline.com, SaltwaterFlyz.com and FishingFlyz.com, without first submitting a sample of such to us and obtaining the prior written consent from FishingFliesOnline.com, which shall not be unreasonably withheld. We reserve all of our rights in the Licensed Materials and of our other proprietary rights. We may revoke your license at any time, by giving you written notice.

You grant to us a non-exclusive license to utilize your names, titles, and logos, as the same may be amended from time to time (the "Affiliate Trademarks"), to advertise, market, promote, and publicize in any manner our rights hereunder; provided, however, that we shall not be required to so advertise, market, promote, or publicize. This license shall terminate upon the effective date of the expiration or termination of this Agreement.

#### **14. Obligations Regarding Your Site:**

You will be solely responsible for the development, operation, and maintenance of your site and for all materials that appear on your site. Such responsibilities include, but are not limited to, the technical operation of your site and all related equipment; creating and posting flies, descriptions, and references on your site and linking those descriptions to our site; the accuracy and propriety of materials posted on your site (including, but not limited to, all fly related materials); ensuring that materials posted on your site do not violate or infringe upon the rights of any third party and are not otherwise illegal.

We disclaim all liability for all such matters. Further, you will indemnify and hold us harmless from all claims, damages, and expenses (including, without limitation, attorneys' fees) relating to the development, operation, maintenance, and contents of your site.

#### **15. Term of the Agreement:**

The term of this Agreement will begin upon our acceptance of your Affiliate Network application and will end when terminated by either party. Either you or we may terminate this Agreement at any time, with or without cause, by giving the other party written notice of termination. You are only eligible to earn commission fees on sales occurring during the term, and fees earned through the date of termination will remain payable only if the related flies orders are not cancelled. We may withhold your final payment for a reasonable time to ensure that the correct amount is paid.

#### **16. Modification:**

We may modify any of the terms and conditions contained in this Agreement, at any time in our sole discretion. Modifications may include, but are not limited to, changes in the scope of available commission fees, commission schedules, payment procedures, and Affiliate Network rules. If any modification is unacceptable to you, your recourse is to terminate this agreement. Your continued participation in the Affiliate Network following our posting of a change notice or new agreement on our site will constitute binding acceptance of the change.

**17. Relationship of Parties:**

You and FishingFliesOnline.com are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on our behalf.

**18. Disclaimers:**

We make no express or implied warranties or representations with respect to the Affiliate Network or any flies sold through the Affiliate Network (including, without limitation, warranties of fitness, merchantability, or any implied warranties arising out of course of performance, dealing, or trade usage). In addition, we make no representation that the operation of our site will be uninterrupted or error free, and we will not be liable for the consequences of any interruptions or errors.

**19. Representations and Warranties:**

You hereby represent and warrant to us as follows:

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

The execution, delivery, and performance by you of this Agreement and the consummation by you of the transactions discussed herein will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate (i) any provision of law, rule, or regulation to which you are subject, (ii) any order, judgment, or decree applicable to you or binding upon your assets or properties, (iii) any provision of your by-laws or certificate of incorporation, or (iv) any agreement or other instrument applicable to you or binding upon you or your assets.

You are the sole and exclusive owner of the Affiliate Trademarks and have the right and power to grant to us the license to use your trademarks in the manner contemplated herein, and such grant does not (i) breach, conflict with, or constitute a default under any agreement or other instrument applicable to you or binding upon your assets or properties, or (ii) infringe upon any trademark, trade name, service mark, copyright, or other proprietary right of any other person or entity.

No consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made by you in connection with the execution, delivery, and performance of this Agreement or the taking by you of any other action discussed herein.

There is no pending or, to the best of your knowledge, threatened claim, action, or proceeding against you, or any affiliate of yours, with respect to the execution, delivery or consummation of this Agreement, or with respect to your trademarks, and, to the best of your knowledge, there is no basis for any such claim, action, or proceeding.

**20. Confidentiality:**

Except as otherwise provided in this Agreement or with the consent of the other party hereto, each of the parties hereto agrees that all information including, without limitation, the terms of this Agreement, business and financial information, customer and vendor lists, and pricing and sales information, concerning us or you, respectively, or any of our affiliates provided by or on behalf of any of them shall remain strictly confidential and secret and shall not be utilized, directly or indirectly, by such party for its own business purposes or for any other purpose except and solely to the extent that any such information is generally known or available to the public through a source or sources other than such party hereto or its affiliates.

**21. Limitation of Liability:**

We will 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 Affiliate Network, even if we have been advised of the possibility of such damages. Further, our aggregate liability arising with respect to this Agreement and the Affiliate Network will not exceed the total commission fees paid or payable to you under this Agreement.

**22. Indemnification:**

You hereby agree to indemnify and hold harmless Fishing Flies Online.com 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 the Affiliate Trademarks 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, or (iii) any claim related to your site, including, without limitation, content therein not attributable to us.

**23. Independent Investigation:**

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL OF ITS TERMS AND CONDITIONS. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE AFFILIATE NETWORK AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

**24. Governing Law:**

This Agreement will be governed by the laws of the United States and the state of New Mexico, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the federal or state courts located in the county of Santa Fe, and you irrevocably consent to the jurisdiction of such courts. You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on and enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such a provision or any other provision of this Agreement.

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