

WWR2024 Affiliate Agreement (v2)

The following Affiliate Agreement ("**Agreement**") is entered into by and between <https://suebrownmoore.com> ("**Company**", "**we**", "**our**" or "**us**") and the party submitting an application to become an affiliate of the Company and/or having an accepted application ("**Affiliate**" or "**You**").

The Company has set up a program for affiliates to promote its products in exchange for a share of the proceeds of any sales (the "**Affiliate Program**"). The terms of this Agreement apply to Your participation in the Company's Affiliate Program for the Wanna Write Romance 2024 virtual conference.

By submitting an application to participate in the Affiliate Program and/or by otherwise participating in the Affiliate Program, You are expressly agreeing to the terms and conditions set out in this Agreement and in any agreement that might apply to individual products.

Taxes and Payment Gateways

Affiliate shall not be eligible to receive any payments from the Company until Affiliate has completed registration for the Wanna Write Romance 2024 Affiliate Program in our ThriveCart Affiliate gateway and set up all required payment information as required by ThriveCart.

Affiliate shall not be required to complete either a W9 or a W8BEN at the time of registration for the Affiliate Program. Affiliates with a PayPal Business account connected to Your ThriveCart Affiliate account should receive end-of-year documentation for taxes from PayPal. It is Affiliate's sole responsibility to find or complete these forms for Your own tax liability.

The Company shall pay any sums due to Affiliate as set forth below through the payment gateway associated with Your ThriveCart affiliate account (e.g. PayPal). Affiliate shall be responsible for providing the necessary information to facilitate the use of that payment method.

Commissions

The Company will pay Affiliate a fee (a "**Commission**"), for each customer acquired as a result of a customer being referred to the Company using the unique tracking links assigned to the Affiliate ("**Affiliate Links**"). The tracking and attribution of sales to Affiliates based upon their tracking links is done automatically by the Company's marketing automation system, ThriveCart. Affiliates shall be paid only for sales that are tracked through the Company's marketing automation system and indicate the Affiliate Link as the source of the sale.

Affiliate shall receive a Commission payment equal to 50% of the gross revenue for each sale of The Spark Pass ticket upgrade attributed to Affiliate using an Affiliate Link, minus any related fees charged by the

payment gateway.

Affiliate agrees that the Company shall only be liable for payment of the Commissions to the extent it receives all funds due and owing to it from the relevant customer after the refund period has passed. Accordingly, Affiliate shall not be entitled to any Commission on a sale that is refunded, for which there is a chargeback, or for which the Company ultimately does not receive the sales proceeds as a result of credit card abuse or fraud.

The Company shall pay Commissions, after receiving the commissionable payment, before the end of the day on August 31, 2024. The Company shall only pay commissions to Affiliate when the commissions payable are greater than \$0.

Right To Chargeback, Offset, and Holdback

Affiliate agrees that the Company shall have the right to charge back the Affiliate's account or otherwise adjust for any previously paid Commissions that ultimately are not commissionable under this Affiliate Agreement. Specifically, in the event that a sale attributed to an Affiliate is charged back or otherwise challenged after the Commission has been paid, the Company shall have the right to charge back the Commission paid to the Affiliate.

Affiliate further agrees that the Company shall have the right to offset any Commissions due and payable to the Affiliate to account for any chargebacks the Company experiences on sales for which Affiliate has already received a Commission.

Affiliate further agrees that the Company shall have the right, but not the obligation, to hold back up to 50% of the Commissions due (the "**Holdback**") for a period of 90 days to ensure an ability to offset any chargebacks. In the event that the Affiliate's chargeback percentage exceeds the Holdback for a period of two consecutive months, the Company shall have the right to increase the percentage of commissions held back from Affiliate. The Company shall provide written notice of any such increased Holdback percentage that shall apply to Affiliate.

Representations and Warranties

The Company represents and warrants:

- that it shall not knowingly and intentionally violate any law, regulation, or rule applicable to its business operations;
- that the products and/or services offered in connection with the Affiliate Program are legal products and services within the Company's jurisdiction;
- that it intends to be bound by the mutual promises, terms, and conditions of this Agreement; and
- that it has the necessary intellectual property and other rights to offer the products that are available for promotion under the Affiliate Program.

Affiliate represents and warrants:

- that Affiliate has read this Agreement, understands its terms, and agrees to be bound by this Agreement;
- that this Agreement constitutes Affiliate's valid and binding agreement and was executed by a person with authority to bind the Affiliate;
- that Affiliate's answers to the questions in the Affiliate Application, if required for approval, were truthful and accurate to the best of Affiliate's knowledge;
- that Affiliate will comply with CAN-SPAM, GDPR, and CA-SL requirements in connection with email marketing;
- that Affiliate will comply with all applicable Federal Trade Commission rules, regulations, and guidelines related to affiliate marketing;
- that Affiliate will not make use of the Company's name, trademark, or service mark in any manner other than expressly allowed under the Affiliate Program; and
- that Affiliate will not engage in any behavior that violates the terms of this Agreement or that constitutes an attempt to fraudulently or deceptively increase the earnings of Affiliate under this Affiliate Program.

Promotional Material, Limited License, and Intellectual Property

From time to time, the Company may make materials available to Affiliate for use in promoting the Company's products ("**Promotional Material**"). The Promotional Material may include the Company's logos, images of products that are part of the Affiliate Program, display banner advertisements, button links, text links, and other graphic and textual material for use in Affiliate's promotion efforts.

Upon acceptance into the Affiliate Program, the Company grants Affiliate a revocable, non-exclusive, worldwide, royalty-free license to use the Promotional Material during the term of this Agreement. The Affiliate may use the Promotional Material on its website, in emails, and in other promotional activities.

Affiliate may use any such Promotional Material solely for the purpose of promoting the Company's products and/or for linking to the Company's website. Affiliate may not make any other use of the Promotional Material and shall not state or imply that the Company has endorsed the Affiliate.

Affiliate agrees not to alter, add to, subtract from, or otherwise modify any of the Promotional Material provided by the Company without the express written consent of the Company. Moreover, Affiliate may not make any derivative works using the Promotional Material.

Acceptable And Non-Acceptable Marketing Practices

Affiliate shall post and make available to all end-users an appropriate privacy policy that complies with all applicable federal, state, and local laws and requirements. The privacy policy shall be made available to users prior to the collection of any personally identifiable information, and shall clearly disclose all information collection, use, and sharing practices, including any collection of information in connection with the Affiliate Program.

Affiliate shall not promote Company's products: (1) in conjunction with any illegal activity, (2) on any illegal website, (3) in a manner that a reasonable person would consider threatening, harmful, defamatory, obscene, sexually predatory, harassing, or promoting violence; (4) in a manner that promotes discrimination, (5) in any manner the Company expressly deems as objectionable, or (6) in a manner that infringes upon the intellectual property or related rights held by any third party.

Affiliate shall not make any claims, guarantees, representations, or warranties about the Company's products, except as expressly authorized herein or in the Company's Website Terms of Use.

Term and Termination

This Agreement shall commence upon the date the Company notifies You that You have been accepted into the Affiliate Program and shall continue thereafter until terminated as provided herein. If your Affiliate application or link was approved automatically, this Agreement shall commence upon the date you received your unique Affiliate URL for the Wanna Write Romance 2024 event and shall continue thereafter until terminated as provided herein.

The Company may terminate this Agreement in full or in part at any time and for any reason it deems appropriate with or without prior notice to You. In the event of termination, the Company will disable any tracking URLs, links, cookies, pixels, and similar mechanisms for use with the Affiliate Program. You may terminate this Agreement at any time upon notification to the Company in writing.

Upon termination, You shall immediately cease all use of the Promotional Materials and all of the Company's intellectual property and will delete all copies of such materials in Your possession. Furthermore, You shall immediately cease representing Yourself as a participant in the Affiliate Program.

You shall be entitled to all validly accrued Commissions that have been earned prior to the termination of this Agreement.

Disclaimers

THE AFFILIATE PROGRAM, ANY PROMOTIONAL MATERIAL, AND THE PRODUCTS AND SERVICES PROVIDED IN CONNECTION THEREWITH, ARE PROVIDED TO AFFILIATE "AS IS."

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE COMPANY EXPRESSLY DISCLAIMS TO THE

MAXIMUM EXTENT ALLOWED BY LAW, ALL WARRANTIES, EXPRESS AND IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF THE COURSE OF DEALING, USAGE, OR TRADE.

THE COMPANY DOES NOT WARRANT THAT THE AFFILIATE PROGRAM OR PROMOTIONAL MATERIALS WILL MEET AFFILIATE'S SPECIFIC REQUIREMENTS OR THAT THE MATERIALS ARE ERROR FREE OR UNINTERRUPTED.

THE COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY FOR ANY ACT OR OMISSION OF ANY THIRD PARTY PROVIDER NOT UNDER THE CONTROL OF THE COMPANY, AND THEIR PRODUCTS AND SERVICES.

AFFILIATE EXPRESSLY AGREES AND UNDERSTANDS THAT THE COMPANY HAS NOT MADE ANY GUARANTEE THAT AFFILIATE WILL EARN ANY SPECIFIC AMOUNT OF COMMISSIONS AND ATTESTS THAT NO SUCH REPRESENTATIONS OR CLAIMS HAVE BEEN MADE.

Limitation of Liability

YOU AGREE TO ABSOLVE AND DO HEREBY ABSOLVE THE COMPANY OF ANY AND ALL LIABILITY OR LOSS THAT YOU OR ANY PERSON OR ENTITY ASSOCIATED WITH YOU MAY SUFFER OR INCUR AS A RESULT OF PARTICIPATION IN THE AFFILIATE PROGRAM AND/OR ANY INFORMATION AND RESOURCES CONTAINED IN THE AFFILIATE PROGRAM. YOU AGREE THAT THE COMPANY SHALL NOT BE LIABLE TO YOU FOR ANY TYPE OF DAMAGES, INCLUDING DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EQUITABLE, OR CONSEQUENTIAL LOSS OR DAMAGES FOR PARTICIPATION IN THE AFFILIATE PROGRAM.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA, OR PROFITS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE AFFILIATE PROGRAM, WITH THE DELAY OR INABILITY TO USE THE AFFILIATE PROGRAM OR RELATED SERVICE, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS, SERVICES, AND RELATED GRAPHICS OBTAINED THROUGH THE AFFILIATE PROGRAM, OR OTHERWISE ARISING OUT OF THE USE OF THE AFFILIATE PROGRAM, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, EVEN IF THE COMPANY OR ANY OF ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. BECAUSE SOME STATES OR OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH THE AFFILIATE PROGRAM OR ANY PORTION OF IT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO TERMINATE YOUR PARTICIPATION IN THE AFFILIATE PROGRAM.

Choice of Law & Choice of Forum

The Parties agree that this Agreement shall be construed under the laws of California regardless of any choice of law rules.

Each Party irrevocably and unconditionally agrees that any dispute arising under or related to this Agreement shall be resolved exclusively through individual, non-class arbitration to be held in San Mateo, California under the rules of the American Arbitration Association. Each Party irrevocably and

unconditionally submits to the exclusive jurisdiction of such arbitration and agrees to bring any such dispute only in such forum. Each Party agrees that a final judgment by such arbitration is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

Fee Shifting

The Parties agree that the prevailing Party in any action relating to or arising out of this Agreement will be awarded its reasonable attorneys' fees and costs incurred as a result of such a proceeding.

Miscellaneous Clauses

The Parties further agree:

Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

Amendments. No amendment to or modification of this Agreement is effective unless it is in writing and signed by each Party.

Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

Assignment. Neither Party may assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party. For the avoidance of doubt, any party may rely upon employees or independent contractors to perform any work required of it in this agreement, but the Party shall remain ultimately responsible for the completion of that work and its quality. Any purported assignment or delegation in violation of this Section shall be null and void.

Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither Party shall have authority to contract for or bind the other party in any manner whatsoever.

No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Indemnification. Each Party (the "**Indemnifying Party**") agrees to indemnify, defend, and hold harmless the other Party, its officers, directors, employees, and agents for any losses, costs, liabilities, and expenses (including reasonable attorneys' fees) relating to or arising from the Indemnifying Party's (i) breach or non-fulfillment of any representation, warranty, or covenant in this Agreement, (ii) breach of this Agreement, or (iii) grossly negligent behavior in connection with this Agreement.

Force Majeure. Neither Party shall be liable or responsible to the other, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of that Party including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic or pandemic, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage. If the event in question continues for a continuous period in excess of 15 days, either Party shall be entitled to give notice in writing to the other to terminate this Agreement.