



AFFILIATE OPERATING AGREEMENT

THIS OPERATING AGREEMENT (the “Agreement”) contains the complete terms and conditions that apply between New Beginnings Nutritional or www.nbnus.com, a Kansas, U.S.A. Limited Liability Corporation (“NBN”), and you (the “Affiliate,” and collectively, the “Parties”). By submitting an application to join the New Beginnings Nutritional affiliate program, you are confirming that you have read this Operating Agreement and agreed to be bound by its terms and conditions.

WHEREAS Affiliate wishes to certain materials promoting NBN, and to include a link to NBN’s website within those materials on Affiliate’s website.

NOW THEREFORE, in consideration of the mutual promises, covenants, warranties, and other good and valuable consideration set forth herein, the Parties agree as follows:

- 1. Who can be an Affiliate.** Affiliates must have a valid and active website, active social media page, or blog for marketing NBN products before being approved. Affiliates who only use the links for personal orders will not receive commissions. In order to receive commissions, at least 60% of all affiliate purchases must come from orders that are not classified as personal orders. Personal orders placed by the Affiliate are not eligible for commissions.
- 2. Promotional Links.** For orders to be eligible to receive commissions, they must be placed through an Affiliate Link placed on a website, social media page, blog, or within a newsletter. NBN shall make available to the Affiliate certain banner advertisements, text links, and/or other graphic or textual material for display and use on the Affiliate media platform (“Links”). Affiliate shall display the Links on their media platform prominently and as Affiliate sees fit, provided that the manner of display shall be subject to the terms and conditions of this Agreement. Affiliate shall also include a link from the Links to NBN’s website, as specified by NBN.

Use of Links. The Affiliate’s use and display of the Links on the Affiliate’s site shall conform to the following terms, conditions, and specifications:

- a. Affiliate may not use any graphic, textual, or other materials to promote NBN’s website, products or services other than the Links, unless NBN agrees to such other materials in writing prior to their display.
- b. Affiliate may only use the Links for the purpose of promoting NBN’s website (and the products and services available thereon), and for linking to NBN’s website.
- c. The Links will be used to link only to NBN’s website, to the specific page and address as specified by NBN.

- d. Affiliate will not alter, add to, subtract from, or otherwise modify the Links as they are prepared by NBN except when preparing product specific links. If Affiliate wishes to make other type of link modification, Affiliate must obtain prior written consent from NBN for such alteration or modification.
3. **License.** NBN hereby grants to Affiliate a nonexclusive, nontransferable license (the “License”) to use the Links as specified under the terms and conditions of this Agreement. The term of the License shall expire upon the expiration or termination of this Agreement.
 4. **Intellectual Property.** NBN retains all right, ownership, and interest in the Links, and in any copyright, trademark, or other intellectual property in the Links. Nothing in this Agreement shall be construed to grant Affiliate any rights, ownership or interest in the Links, or in the underlying intellectual property, other than the rights to use the Links granted under the License, as set forth in Section 3.
 5. **Relationship of Parties.** This Agreement shall not be construed to create any employment relationship, agency relationship, or partnership between NBN and Affiliate. Affiliate shall provide services for NBN as an independent contractor. Affiliate shall have no authority to bind NBN into any agreement, nor shall Affiliate be considered to be an agent of NBN in any respect.
 6. **Commissions.**
 - a. In exchange for Affiliate’s display of the Links, and for Affiliate’s compliance with and performance of the terms and conditions of this Agreement, NBN shall pay to Affiliate 20% of the revenue as a commission (the “Commission”) from orders for nutritional supplements placed through the Affiliate’s media platform. Products that are exempt from commissions include BrainChild Nutritional products, Visbiome, Culturelle, and sale items. Commissions will not be paid when more than 40% of the orders received are for the Affiliate’s personal orders. Commissions are only valid on retail orders.
 - b. NBN shall keep accurate and up-to-date records of the data used to determine the total amount of Commissions owed to the Affiliate. Affiliate shall be given reasonable access to these records upon request. Any discrepancy between the amount of Commissions owed according to these records, and the actual amount of Commissions paid to Affiliate in any period or periods shall be rectified by NBN within 14 days of discovering such discrepancy.
 - c. NBN shall pay all Commissions accrued and payable to Affiliate within 20 days at the end of each month (the “Commission Payment Date”). If on any Commission Payment Date, the amount of total Commissions accrued and payable to Affiliate is less than \$20.00, then such accrued and payable balance shall be held over to the following month and paid together with the Commissions due for that month.
 - d. If the Affiliate is outside of the United States, commissions will either be issued via PayPal payment or will be added “on account” to be used for the Affiliate’s personal orders. Any “on account” commissions will expire after one year. All commissions will be paid in USD.

- e. If a customer later requests a refund, returns an order, or a chargeback is issued by the credit card holder whose credit card was used to pay for that customer's account, any commissions credited to the Affiliate will be deducted from the next monthly payments. If returns/refunds are high, this may result in a negative balance in the Affiliate Account.
- f. In the event that Affiliate materially breaches this Agreement and NBN terminates this Agreement within 30 days of such breach, then any accrued and payable Commissions owing to Affiliate shall be forfeited, and NBN shall not be obligated to pay such Commissions to Affiliate.
- g. If the customer that has clicked through the Affiliate link lists another registered salesperson or healthcare professional under the "How did you hear about us?" portion on the order screen, then New Beginnings will judge which party is to receive the commissions for the order. Each event will be judge individually.

7. Affiliate's Representations and Warranties. Affiliate represents and warrants the following:

- a. Affiliate has the legal authority to enter into this Agreement and to be bound to the promises, covenants, and other duties set forth in this Agreement.
- b. Affiliate's website, social media page, blog, or newsletter must not contain any materials that are:
 - i. Sexually explicit, obscene, or pornographic;
 - ii. Offensive, profane, hateful, threatening, harmful, defamatory, libelous, harassing, or discriminatory (whether based on race, ethnicity, creed, religion, gender, sexual orientation, physical disability, or otherwise);
 - iii. Graphically violent, including any violent video game images; or
 - iv. Solicitous of any unlawful behavior
- c. Affiliate has obtained any necessary clearances, licenses, or other permission for any intellectual property used on Affiliate's website. Nothing on Affiliate's website infringes upon the intellectual property rights of any person or entity. No person or entity has brought or threatened an action claiming such infringement, nor does Affiliate have any reason to believe that any person or entity will bring or threaten such a claim in the future.
- d. Affiliate will not participate in spyware, adware, or parasiteware techniques and will not use the Links in any manner other than those set forth in Section 2 above.
- e. Affiliate will not make any claim to ownership of the Links, or of the copyright, trademark, or other intellectual property therein.
- f. Affiliate will not publish or otherwise distribute any advertising materials for Affiliate's media platform that reference NBN or NBN's website unless NBN gives prior written consent to the distribution of such materials. Affiliate will not use NBN's name (or any name that is confusingly similar to NBN's name) for any purpose on its website, in its Links, or in any other context except to promote NBN's website as specified in this

Agreement. Affiliate will not register any domain name that incorporates NBN's name, or that is confusingly similar to NBN's name.

- g. Affiliate will not engage in the distribution of any unsolicited bulk emails (spam) in any way mentioning or referencing NBN or NBN's website.
 - h. Affiliate will not make disease and/or drug claims, and must at all times ensure that their promotions are acceptable structure-function claims and follow all relevant rules and regulations of the U.S. Food and Drug Administration ("FDA").
 - i. Affiliate will comply with the rules of any applicable social media/internet platforms.
8. **Indemnification.** Affiliate shall indemnify NBN and hold harmless NBN from any claim, damage, lawsuit, action, complaint, or other costs arising out of any breach of Affiliate's warranties set forth in Section 7 above. Affiliate shall also indemnify and hold harmless NBN for any damage, loss or other cost arising out of the use or misuse by Affiliate of the Links.
9. **Confidentiality.** Any information that the Affiliate is exposed to by virtue of its relationship with NBN under this Agreement, which information is not available to the general public, shall be considered to be "Confidential NBN Information." Affiliate may not disclose any Confidential NBN Information to any person or entity, except where compelled by law, unless Affiliate obtains prior written consent for such disclosure from NBN.

10. **Termination.**

- a. This Agreement shall take effect upon our acceptance of your Affiliate Program application and shall remain in full force and effect indefinitely, or until terminated pursuant to this Section 10.
- b. Either Party shall have the right to terminate this Agreement at any time and for any cause. The terminating Party must give written notice to the other Party at least 30 days prior to the intended date of termination. NBN reserves the right to revoke an Affiliate's status and nullify the account for any of the following reasons:
 - i. If NBN does not receive this document signed and dated by the Affiliate within one month of registration;
 - ii. If the account has been inactive for over one year;
 - iii. If more than 40% of orders made through the link are determined to be personal orders placed by the Affiliate;
 - iv. If the Affiliate commits, allegedly committed, or committed in the past any criminal acts or other acts involving moral turpitude, drugs, or felonious activities; committed any acts or become involved in any situation or occurrence which brings them in public disrepute, contempt, scandal or ridicule, or which shocks or offends the community or any group or class thereof; or
 - v. If the Affiliate is in any way in violation of this Agreement.

- 11. **Taxes.** NBN shall not be responsible for any taxes owed by Affiliate arising out of Affiliate’s relationship with NBN as set forth in this Agreement. NBN shall not withhold any taxes from the Commissions paid to Affiliate.
- 12. **Limitation of Liability.** NBN shall not be liable for any loss of profits or costs, or for any direct, indirect, special, incidental or consequential damages, including costs associated with the procurement of substitute goods or services (whether NBN was or should have been aware or advised of the possibility of such damage), arising out of or associated with any loss, suspension or interruption of service, termination of this Agreement, use or misuse of the Links, or other performance of services under this Agreement.
- 13. **Governing Law.** This Agreement shall be construed in accordance with, and governed in all respects by, the laws of the United States and the state of Kansas, without regard to conflicts of law principles.
- 14. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.
- 15. **Severability.** If any part or parts of this Agreement shall be held unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited.
- 16. **Headings.** The headings for section herein are for convenience only and shall not affect the meaning of the provisions of this Agreement.
- 17. **Entire Agreement.** This Agreement constitutes the entire agreement between NBN and the Affiliate and supersedes any prior understanding or representation of any kind preceding the date of this Agreement. There are no other promises, conditions, understandings, or other agreements, whether oral or written, relating to the subject matter of this Agreement.

Please sign below to indicate your acceptance of the terms outlined in this Agreement and submit electronically by emailing form to info@nbnus.com.

AFFILIATE

Name

Business Name (if applicable)

Signature*

Date

*denotes I have read and accepted all terms of Affiliate Operating Agreement