



BALANCED | YOU™

Reprogramming Your Mind for Ultimate Success

Affiliate Program Agreement

This Agreement was last modified on 4/3/20

By signing up as an Affiliate (hereinafter “You” or “Affiliate”) with Balanced You™ (hereinafter “Company”), You agree to be bound by this Agreement which outlines the terms of your participation in the Company’s Affiliate Program.

Company reserves the right to remove you at any time from the Program for violation of any of the terms of participation. They are straightforward and easy to understand but legally of utmost importance.

By Participating in this Program, you agree to indemnify and hold harmless the Company, and any of its members, representatives, agents, or employees for any liability caused by a violation of these terms.

1. Participation Not Guaranteed. To apply for participation in the Affiliate Program, You must complete an application through the Company website, and consent to these Terms before your application will be approved. The Company is under no obligation to accept your application, and may deny any application for any reason. You represent that all information provided through the application is accurate and current. Company reserves the right in its sole and absolute discretion to deny acceptance into its Affiliate Program for any applicant that Company deems unqualified for any reason.

2. Term. The term of this Agreement shall be, unless otherwise indicated or agreed upon between the parties, for 12-months on auto renew from the date of enrollment. The Company may extend, terminate or modify the term for any reason including but not limited to discontinuation of any offerings, programs or products, revision of offer or launch dates, technical difficulties or for reasons outside of the Company’s control.

3. Cancellation. Either Party may voluntarily cancel or terminate this Agreement at any time by notifying the other party in writing. However, any obligations (or liability) incurred prior to said voluntary cancellation of the Agreement shall continue beyond the cancellation date until paid or otherwise fulfilled.

However, failure to comply with the terms of this Agreement will result in immediate termination and forfeiture by Affiliate to any accrued, unpaid commission. Furthermore, any liability resulting from Affiliate’s breach of any terms shall be borne exclusively by Affiliate, in accordance with paragraph 18 below.

Finally, any cancellation or termination of this Agreement shall result in immediate termination of any limited license granted to Affiliate to use intellectual property of the Company pursuant to this Agreement for purposes of promoting the products or services covered herein.

4. Offerings Covered by this Affiliate Agreement. This Affiliate Agreement covers any programs, courses, offerings, digital downloads and educational materials offered through the Company’s website or online store, unless otherwise specified on the Affiliate Program Enrollment page.

5. Promotional Materials / Marketing Content. Company shall provide Affiliate with promotional materials which may include pre-launch content subject to a specific launch or marketing schedule, or general marketing or promotional content (including for evergreen products or offerings). The promotional materials may include text,

images, links, buttons, banners, or other material for use and/or display on the Affiliate's website or in its email marketing efforts in support of Company's offerings. All material shall be used in accordance with these terms, and only as specified by Company, including through any instructions that accompany the Promotional Materials provided by Company. Affiliate agrees to make best efforts to cooperate with Company's marketing schedule and other marketing requirements.

Affiliate agrees to use the Promotional Materials as follows:

- i. Affiliate may only use the Promotional Materials, (text, graphics, audio, video or other content provided by Company) to promote Company's offerings, unless Company has provide express written consent or approval of additional materials prior to their use by Affiliate.
- ii. Affiliate may only use the Promotional Materials for promotion of Company or its offerings, and for linking to the Company's website, or specific offers or sales pages as directed by Company.
- iii. Affiliate will not modify the Promotional Materials in any way, without the prior written consent of Company to specific alterations, additions or subtractions requested by Affiliate.

Company may update or add to this information from time to time and communicate new marketing material or provide related documentation in support of this Agreement as necessary. Affiliate agrees to make best efforts to cooperate with Company's promotional or marketing schedule and other marketing requirements.

6. Commissions. Affiliate will be paid a Commission for each customer who completes a one-time or monthly payment purchase on the Balanced You™ website using the affiliate link assigned to Affiliate. Commissions will be calculated based upon the Gross Sales Price. Gross Sales Price is defined as all payments received by Company for the sale of the product, but not including shipping and handling, sales tax, special service fees, late charges, collection costs, amounts due to credit card fraud, or payments cancelled or returned due to charge-back requests or refunds.

Company reserves the right to temporarily or permanently withhold Commissions on any sale that involves fraudulent activity, the failure of the customer or purchaser to comply with terms of purchase including payment plan terms, or providing accurate customer or billing information, or for any other reason that would require termination of or refund of the sale.

Commissions shall be paid as indicated on the Affiliate Program Enrollment page, Affiliate Offer page, or other related page that provides information specific to Company's offerings and associated commission rates.

Company reserve the right to change the commission rate structure at any time in the Company's sole discretion and will issue notice to any participating Affiliates immediately upon such change to the program. Any change in commission rate structure shall not affect sales transacted prior to such change.

7. Commission Payment Timeline. Commissions are paid on a quarterly basis for all sales transacted and paid in full (and not subject to returns or refunds) at least 60 days prior to the processing of quarterly payments. For example, Commissions paid on March 31, the completion of the first calendar quarter, will be for all sales transacted and paid in full by January 31. Commissions paid on June 30, the completion of the second calendar quarter, will be for all sales transacted and paid in full by April 30. This means that in some instances the payment of commissions will occur in the calendar year following the sales transaction.

8. Sales Tracking & Reporting. Company will provide Affiliate with its own Affiliate Website Link for the sales of the product or services covered by this Agreement. Affiliate will have access to an Affiliate portal through Infusionsoft which will display the sales history and other relevant information related to any sales transacted

using Affiliate's unique affiliate link. If Affiliate has any questions at any time about the Company's Affiliate Program, Affiliate may contact Company at [jenny \[at\] balancedyou \[dot\] org](mailto:jenny[at]balancedyou[dot]org) for assistance.

9. Fulfillment & Company Policies. Company will provide customer service, fulfillment, and responses to customer inquiries or requests, including for sales transacted using Affiliate's link. Company reserves the right to modify or discontinue its offerings, or modify its terms of purchase including pricing for any offerings covered by this Agreement at any time without advance notice to Affiliate or customers. Updated Terms of Purchase will be posted conspicuously and will be available at the point of check-out for any offerings, including those covered by this Agreement.

10. Affiliate Intellectual Property. By participating in Company Affiliate Program, You grant to Company a revocable, non-exclusive, world-wide royalty-free license to use Affiliate's business or individual name, logo, trademarks, trade names, service marks, business slogan, web-page title(s), and copyrighted materials for purposes of promoting Company's Affiliate Program or announcing Affiliate's participation in said program. The Company has the right but not the obligation to engage in such activities.

11. Affiliate's Website, Legal Notices, and Legal Compliance.

a. Website

Affiliate is solely responsible for the operation and maintenance of its own website and all liability related thereto. Affiliate represents that the material or content appearing on its website does not infringe upon the rights of any third party, including intellectual property rights or the right to privacy.

b. Legal Notices for Website

If the Affiliate is placing any links on Affiliate's website, Affiliate affirmatively represents that Affiliate has proper legal documentation implemented on its website including Website Terms & Conditions, and a Privacy Policy that is compliant with US regulations as well as the GDPR if Affiliate advertises to or collects any data from residents of the EU.

c. Affiliate Disclosure / FTC Endorsement Compliance

Affiliate agrees to comply with the Federal Trade Commission 16 CFR Part 255: Guides Concerning the Use of Endorsements and Testimonials in Advertising, which requires, among other criteria, that material connections between advertisers and endorsers be disclosed. This means that Affiliate, if providing an endorsement or assessment of an advertiser (in this case, the Company) must prominently disclose the fact that financial or in-kind compensation is provided from the Company. To be clear, *Affiliate is responsible for providing a conspicuously posted Affiliate Disclosure, disclosing its use of affiliate links, in accordance with Section 5 of the Federal Trade Commission Act.* Affiliate further agrees, in accordance with the above regulation, not to make any false or misleading statements regarding Affiliate's use of or experience with Company's products or services.

For more information (not legal advice), visit this Guide:

<https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>

With this Guide, refer to the section on Affiliates or Network Marketers: <https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking>

d. Emails and Publicity

Affiliate agrees that it will not violate the Can-Spam Act of 2003 or Company's Anti-Spam Policy in publishing, transmitting or otherwise distributing content or materials subject to this Affiliate Program Agreement. This prohibits Affiliate from sending bulk electronic mail messages (also known as "SPAM") without prior consent of recipients to receive e-mail communications from Affiliate, including communications regarding affiliate's relationship with the Company subject to this Affiliate Program Agreement. Any failure to abide by the anti-spam laws shall constitute a material breach of this Agreement. Company reserves the right to reject any communication sent by Affiliate contrary to this provision, and terminate the Affiliate relationship accordingly.

e. Outsourcing Email Marketing

Affiliate is solely responsible for its participation in and performance under this Agreement. *If Affiliate outsources email or marketing services or management, Affiliate agrees to ensure that anybody acting on behalf of Affiliate is aware of its obligations under this Agreement* and will comply with all state, federal, and international regulations governing online and email marketing activity including any activities performed pursuant to this Agreement.

Affiliate is advised to seek its own legal advice if it requires clarification or further guidance on the requirements of the above laws.

Company reserves the right to withhold commission fees and cancel the affiliate relationship should it determine that, in Company's discretion, the Affiliate is not in compliance with *any* applicable rules or regulations, including the aforementioned laws and regulations.

12. Right to Monitor. The Company reserves the right to monitor Affiliate's performance to verify that the Affiliate is performing its obligations in accordance with the terms and conditions of this Agreement. Company may request from time to time, and Affiliate agrees to provide when requested, records and documentation showing Affiliate's performance.

13. Licenses and Use of Company Proprietary Information. Subject to the limitations set forth in this Agreement, Company grants Affiliate a non-exclusive, non-transferable, revocable license to access Company's site through the link provided (where applicable), and solely in connection with such link/s to use the Promotional Materials provided by Company, but only in the forms provided by Company for the sole purpose of selling Company products and services as approved in advance by Company. This License shall terminate immediately upon the expiration or termination of this Agreement. Further, Affiliate is not granted a license to use any of the Company's intellectual property or proprietary information other than the Promotional Materials referenced above.

14. Confidentiality. In the event that any information is disclosed to Affiliate through its participation in the Affiliate Program related in any way to the Company and its business which Company deems to be confidential and proprietary, Affiliate agrees to hold such information confidential and to not disclose such information to any third party or use for any purpose other than to fulfill its obligations under this Agreement. Confidential or proprietary information shall include any information related to Company's business, business plans, marketing plans, user statistics, financial information, pricing, profits, membership information, affiliations, sales information, and all other information that Company considers to be confidential and proprietary.

15. Taxes & Affiliate Information. Affiliate is responsible for the payment of all taxes related to commissions received under this Agreement. Affiliate is required to submit a W8/W9 tax form to Company prior to the commencement of its services under this Agreement. In compliance with US tax laws, Company will issue a Form 1099 to Affiliates whose earnings meet or exceed the applicable threshold. Affiliate is responsible for informing

Company of any changes to postal and email addresses, as well as any changes to Affiliate's name, contact information or tax identification numbers, or any other personal information that will impact Company's ability to issue a valid Commission payment. Commission payments may be delayed if Affiliate has not provided the required information.

16. Modifications. Company reserves the right to amend this Agreement and the terms of the Affiliate Program from time to time in its sole discretion. Affiliate will be paid all commissions or fees earned in accordance with this Agreement prior to any such change. Any amendments to this Agreement or changes to the Affiliate Program shall apply to Affiliate in any subsequent sales, following email notification of the modification or new terms. Modifications may include, but are not limited to, changes in the scope of the available Commissions, Commission amounts/ percentages, payment procedures, Commission Fee payment schedules, and Affiliate Program rules. If any modification is unacceptable to Affiliate, Affiliate may terminate this Agreement. Affiliate's continued participation in the Affiliate Program following the email receipt of any modification or terms of the new agreement will constitute binding acceptance of the change.

17. Disclaimer & Limitation of Liability. Company makes no express or implied warranties or representations with respect to the Affiliate Program or any Company Products or Services sold through the Affiliate Program (including, without limitation, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COMPATIBILITY, SECURITY, ACCURACY, CONDITION OR COMPLETENESS, OR ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, PERFORMANCE, USAGE OR TRADE). In addition Company makes no representation that the operation of its website will be uninterrupted or error-free, and Company will not be liable for the consequences of any interruption or errors, including tracking of information about referred Customers or sales during the period of interruption. Best efforts will be made to recapture this information in the event of an interruption, but no result is guaranteed.

18. Indemnification. Affiliate hereby agrees to indemnify, defend and hold harmless the Company (including Company's licensors, licensees, successors, distributors, agents, representatives, and other authorized agents, and each of their respective officers, directors, owners, managers, members, employees, agents, representatives and assigns, collectively the "Indemnified Parties") from and against any and all claims, liabilities, actions, causes of action, damages, losses, costs and expenses, including legal fees and expenses, that the Company may incur and which are based in whole or in part upon the Affiliate's participation in the Affiliate Program, breach of terms or conditions herein, misuse of Licensed Materials referenced above, any infringement by Affiliate upon third-party rights, or any other claim related directly or indirectly to the Affiliate's use, operation of or content on the Affiliate's website. Affiliate shall use best efforts to cooperate with Company in the defense of any claim including to provide Company with assistance, without charge, as may be requested in connection with any such defense, including, without limitation, providing Company with such information, documents, records, and reasonable access to Affiliate as deemed necessary by Company. Company reserves the right to employ separate counsel and assume the exclusive defense and control of the settlement and disposition of any claim that is subject to indemnification by Affiliate. Affiliate shall not settle any third-party claim or waive any defense without Company's prior written consent.

19. Relationship of Parties. Nothing in this Agreement creates any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. Affiliate shall remain an affiliate only, and as an independent contractor shall have no authority to make or accept any offers or representations on Company's behalf.

20. Non-Assignment. Neither party may assign its rights or obligations under this Agreement to any other party, except to a party who obtain all or substantially all of the business or assets of a third party.

21. Entire Agreement. This document and any addenda attached constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations, whether express or implied, written or oral, are hereby merged or terminated and canceled in their entirety if contradictory to what is contained herein.

22. Neutral Construction. The Parties enter into this Agreement voluntarily and agree that this Agreement shall not be construed for or against either party, but shall be construed fairly.

23. Notices. Any and all notices, demands, or other communications desired to be given hereunder by any party shall be in writing and may be validly given or made to another party if provided via e-mail, sent to the email address indicated below. It shall be deemed received IF a confirmation email is provided by either party in response to the Notice E-mail. Any party may change its address for such communications by giving notice to the other party in conformity with this section.

If to the Affiliate: Via the email address used by the Affiliate to sign up for the Company's Affiliate Program.

If to the Company: By email to [jenny \[at\] balancedyou \[dot\] org](mailto:jenny[at]balancedyou[dot]org) with "AFFILIATE AGREEMENT" in the subject line.

23. Counterparts. This Agreement may be executed electronically using any electronic means of acknowledgement; it may also be executed in counterparts, each of which shall constitute an original, and which, when taken together, shall constitute one Agreement.

24. Severability. If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect, and the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision.

25. Dispute Resolution. In the event of a dispute arising under or relating to this Agreement, the Parties agree to make best efforts at resolution directly between the parties; next, to submit the dispute to confidential mediation to be conducted by a mutually selected, qualified neutral, third-party attorney/mediator located in Escondido, CA which mediation may occur in-person, online (via web cams), or telephonically, and shall be scheduled within 30 days of either party providing the other with a request to mediate. Should mediation fail, either party may, within 30 days of the mediation, submit to the other party a request for arbitration which shall be handled by a mutually-selected, qualified arbitrator located in Escondido, CA. If the parties cannot agree upon the arbitrator, the mediator shall be appointed to select an arbitrator. Any decision by the arbitrator shall be binding on the parties. The Company reserves its right to litigate to seek an injunction or enforcement of any award against Affiliate.

26. Headings. The subject headings in this Agreement are provided for convenience only and shall not alter the construction or interpretation of any of its terms or provisions.

27. Governing Law. This Agreement and any action related thereto shall be governed by the laws of the State of California without regard to its choice of law principles. The Parties agree to engage in alternative dispute resolution methods as described above. However, for any enforcement actions following those efforts, the parties consent to exclusive jurisdiction and venue in federal and state courts sitting in San Diego County, California.