

CreditcardscomInc_20070810_S-1_EX-10.33_362297 _EX-10.33_Affiliate Agreement Analysis Report

Compliance Report:

- **Compliance Score:** 45 out of 100
- **Verdict:** Moderate Compliance

Strengths:

* **Indemnification Clause (Section 17):** The contract includes an indemnification clause, protecting Chase from liabilities arising from the Affiliate's breach of representations or claims related to the Affiliate's website. This is a crucial risk mitigation element.

* **Confidentiality Clause (Section 18):** A confidentiality clause is present, outlining the protection of sensitive information shared between Chase and the Affiliate. This is important for protecting proprietary data.

* **Clearly Defined Termination (Section 5):** The agreement clearly outlines the termination process, allowing for termination by either party with or without cause, providing a degree of flexibility.

* **Liability Limitation (Section 21):** The contract limits Chase's liability, preventing excessive exposure to damages. This is a standard and important clause in commercial agreements.

* **Governing Law (Section 23):** The contract specifies the governing law (Delaware), which provides clarity on jurisdiction and applicable legal standards.

Areas for Improvement:

* **Outdated Date:** The contract's last update is April 6, 2007. This is significantly outdated and may not reflect current legal standards or best practices. A complete review and update are necessary.

* **Ambiguous Terms:** Several terms lack precise definitions. For example, "Approved Account" (Section 4) relies on Chase's internal reporting, which could lead to disputes. Clearer definitions and objective criteria are needed. The definition of "Restricted Content" (Section 1) is also subjective and could benefit from more specific examples.

* **One-Sided Modification Clause (Section 19):** The clause allowing Chase to unilaterally modify the agreement is heavily weighted in Chase's favor. This lacks fairness and could be challenged. A more balanced approach, perhaps requiring mutual agreement for significant changes, is recommended.

* **Lack of Dispute Resolution Mechanism:** The contract lacks a clear dispute resolution mechanism (e.g., arbitration, mediation). Including such a clause would streamline conflict resolution.

* **Missing Key Clauses:** Several standard clauses are missing, such as a force majeure clause (covering unforeseen events), a warranty disclaimer for the Affiliate's website, and a severability clause (addressing the enforceability of the remaining clauses if one is deemed invalid).

* **Intellectual Property Rights (Sections 14 & 15):** While the contract addresses trademarks, it could benefit from a more comprehensive treatment of intellectual property rights, including copyrights and patents, to avoid future disputes. The approval process for using licensed materials is cumbersome and could be streamlined.

Reasoning:

The contract demonstrates moderate compliance due to the presence of some essential clauses like indemnification and confidentiality. However, the significant age of the contract, ambiguous terms, and the one-sided modification clause significantly detract from its overall compliance score. The absence of several standard clauses further reduces the score. The contract needs a substantial overhaul to meet current legal standards and best practices.

Additional Information (if needed):

To conduct a thorough evaluation, the following information is needed:

* **Full text of the Affiliate Registration Form:** This form is referenced but not included. Its terms are crucial for a complete assessment.

* **Appendix details:** The appendix, containing lists of restricted trademark terms, is partially shown but incomplete. The full appendix is necessary for a comprehensive review.

* **Current industry standards and regulations:** A comparison with current affiliate marketing regulations and best practices is needed to assess the contract's current relevance. This would involve researching current laws related to affiliate marketing, data privacy (GDPR, CCPA, etc.), and online advertising.