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**BIRTHDAY IN A BOX**  
**AFFILIATE AGREEMENT**

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## **AFFILIATE AGREEMENT**

**THIS AFFILIATE AGREEMENT** (the “Agreement”) is entered into as of the date that your Application to be an Affiliate is accepted by Birthday in a Box, Inc., a Maryland corporation trading as Birthday in a Box (“Birthday in a Box”).

### **RECITALS**

**WHEREAS**, Birthday in a Box engages in the sale of party supplies and personalized products and any lawful business or other activity.

**WHEREAS**, the Affiliate offers various products and services to the public which may result in referrals of business from the Affiliate to Birthday in a Box.

**WHEREAS**, Birthday in a Box has established an Affiliate Program for the purpose of (i) allowing affiliates to advertise and promote Birthday in a Box’s products on their web sites, (ii) establishing links from Affiliates' sites to Birthday in a Box’s website for the purpose of allowing users of Affiliate sites to purchase products from Birthday in a Box.

**WHEREAS**, you desire to be accepted by Birthday in a Box as an Affiliate in the Affiliate Program, and to advertise and promote Birthday in a Box’s products on your web site and to allow users of your site to link to Birthday in a Box’s site for the purpose of purchasing Birthday in a Box’s products, among other things;

**WHEREAS**, Birthday in a Box and the Affiliate desire to enter into an agreement on the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **AGREEMENT**

**1. Construction.** This Agreement (i.e. “Agreement”) contains the terms and conditions applicable to an entity’s or individual’s participation in the Birthday in a Box Affiliate Program. As used in this Agreement: (i) “we,” “us” or “our” refers to Birthday in a Box; (ii) “Program” refers to our Affiliate Program; (iii) “you” or “your” or “Participant” refers to your organization or you, individually, as a sole proprietor; (iv) “Application” refers to a completed on-line Program application to be an Affiliate or other application to be an Affiliate acceptable in form to us; (v) “Participant” refers to any approved entity whose application to be an Affiliate was accepted by us; (vi) “our website” refers to the Birthday in a Box website currently located at [www.birthdayinabox.com](http://www.birthdayinabox.com), [www.boxedbirthdays.com](http://www.boxedbirthdays.com), and [www.birthdaybox.com](http://www.birthdaybox.com), respectively; (vii) “your website” refers to the website/URL from which you will link to our website; (viii) “visitor” or “referral” refers to a person who follows a link from your website to our website; (ix) “Affiliate Code” refers to a Participant’s identification number; and (x) “Cookies” refers to small files placed on your visitors' hard drives that assist us in providing our services.

**2. Enrollment.** To enroll in our Program, you must fill out and submit an Application via our website . We will evaluate your Application in good faith and will notify you of your acceptance or rejection. If accepted, you will be responsible for all of your expenses incurred in connection with your participation in the Program. If rejected, you may reapply to the Program at any time. We reserve the right to reject your Application if we determine, in our sole discretion, that your website is unsuitable for the Program. Unsuitable websites may include, but are not limited to, those that: (i) include content that we deem objectionable; (ii) promote sexually explicit materials; (iii) promote violence; (iv) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age; (v) promote illegal activities; (vi) may create liability for us; (vii) violate intellectual property rights; (viii) do not, in our opinion, adhere to the high standards of quality associated with Birthday in a Box, our products and services; or (ix) do not meet the website traffic standards that we use as an indicator of potential Affiliate sales.

If we approve your Application and you become a Participant, you agree to not put any of the aforementioned inappropriate content on your website. We retain the right, in our sole discretion, to monitor your website at any time and as frequently as we desire to determine if you are in compliance with this Agreement. You should note that, if we accept your Application and later find a content violation during one of our reviews, we may decide that your website is unsuitable for the Program and terminate this Agreement.

**3. Linking to Our Website.** At the time that we approve your Application, Birthday in a Box will make available to you a variety of graphic and textual images (the "Images") that serve to identify your site as a member of the Affiliate Program and will establish links from your site to birthdayinabox.com (the "Links"). Our system will recognize all visitors coming to our site via these Links, and it will credit you for each resulting customer order. From time to time, we will make changes to our URL format that will require you to change strings so that your Links continue functioning properly. Within 15 days of these updates being communicated to you, you agree to make the required changes or to remove our Links until such time as you have updated them.

You may, subject to the terms and conditions of this Agreement, display Links as often and in as many areas on your site as you desire. You shall cooperate fully with Birthday in a Box in establishing and maintaining Links. You may display in your site only those Images provided to you by Birthday in a Box. Birthday in a Box may discontinue use of or replace Images at any time and from time to time in its sole discretion. Upon request, you shall remove any Image from your site and replace it with a new Image provided by Birthday in a Box.

All Links must be displayed prominently in relevant sections of your site. Links may be modified or expanded from time to time upon agreement between you and Birthday in a Box, however, the banner link code cannot at any time be modified by you, as by doing so will not allow proper reporting of traffic sent through such banner link code. Each Link connecting users of your site to an area of Birthday in a Box.com will in no way alter the look, feel, or functionality of Birthday in a Box.com. Birthday in a Box may monitor your site at any time and from time to time to determine if you are in compliance with the terms and conditions of this Agreement.

Birthday in a Box shall be responsible for providing all information necessary to allow you to make appropriate Links from your site to Birthday in a Box.com. Birthday in a Box shall: (i) process all orders (which includes order entry, payment processing, shipping, handling cancellations and returns, and related customer service) from users who link from your site; (ii) track the volume and amount of sales generated by Links from your site; and (iii) provide information to you regarding sales statistics.

As an Affiliate, you will be solely responsible for the development, operation and maintenance of your site and for all materials that appear on your site, including, without limitation: the technical operation of your site and all related equipment; the accuracy and appropriateness of materials posted on your site; ensuring that materials posted on your site do not violate or infringe upon the rights of any third party (including, but not limited to, copyrights, trademarks, privacy, or other personal or proprietary rights); ensuring that materials posted on your site are not libelous, defamatory, misleading, false or deceptive or otherwise illegal; ensuring that your site and your business practices do not include any of the activities of unsuitable sites listed in Section 2 above. You agree to keep your Application updated with current and accurate information. You agree to pay and be responsible for all costs and expenses you may incur in connection with the Affiliate Program or your performance under this Agreement. Birthday in a Box is not obligated to make any representations, warranties or other statements concerning you, your site, any of your products or services, or your site policies.

#### **4. Advertising.**

A. If you qualify and decide to participate as an Affiliate, you agree to display only those Birthday in a Box links, graphical images, offers, contests, and/or promotions that are approved and provided to you through the Program or agreed upon as an amendment to this Agreement. You agree to display these items prominently throughout your website, as you see fit and with our consent. Additionally, you agree not to alter, modify or expand the links or other graphics we provide in any way without our express prior consent.

B. As a Participant, you may not:

i. Place our graphical images or any type of links to our website in unsolicited e-mail/spam, message boards, newsgroups, banner networks, chat rooms, or similar Internet resources;

ii. Bid on any variation of our name or any misspelling of our name, URL, or trademarked names, trade names, or the name of any other affiliate of Birthday in a Box with any search engine, portal, sponsored advertising service or other search or referral service;

iii. Mirror your website after ours in any way; or

iv. Directly or indirectly offer any person or entity any unapproved consideration or incentive - including, without limitation, coupons, payment of money (including any rebate), or granting of any discount or other benefit—for using your Affiliate Links to access

our website. (For example, you cannot implement a "rewards" program for persons or entities who use your Affiliate Links to access our website.)

v. Directly or indirectly use any of the following trademarks of Birthday in a Box without its prior express written consent: Boxed Birthdays, BoxedBirthdays, boxedbirthdays.com, www.boxedbirthdays.com, Birthday in a Box, Birthdayinabox, BirthdayinaBox.com and www.birthdayinabox.com.

C. Engaging in any of the aforementioned restricted practices may, at our sole discretion, result in the withholding of Referral Fees (defined in Section 9) or the termination of this Agreement. In addition, we reserve the right to pursue any and all remedies at law or in equity, including, but not limited to, nonpayment of Referral Fees, requiring you to cease engaging in such practice, and/or termination of this Agreement.

## **5. Our Responsibilities.**

A. Links & Program-Related Information. We will be responsible for providing all necessary information to allow you to successfully link from your website to ours , as well as through occasional e-mail updates and updates on the site. Upon approval of your Application, we will provide you with a username and password which will allow you to access our system. To ensure the success of the Program, we recommend that you visit the www.birthdayinabox.com website for network affiliates as frequently as possible to receive updated Links, information on best-selling party themes, pattern updates, and other pertinent information.

B. Order Processing. We will be solely responsible for processing all customer orders placed with Birthday in a Box as a result of visitors following your Affiliate Links. This encompasses all aspects of order processing and fulfillment, including order entry, payment processing, shipping, order cancellations, returns, and other customer service issues. You may not take orders from customers on our behalf. Also note that, in order to protect the privacy of our customers, we will not provide you with any of our customers' personal information. We reserve the right to change the price charged for products at any time, at our sole discretion and without notice; make appropriate product substitutions, as necessary; and reject orders that do not comply with any requirements that we may establish periodically.

C. Tracking & Reporting. We will track all purchases made by customers who access our website via your Affiliate Links. It is your responsibility to ensure that the instructions we provide for linking to our website are followed and that the appropriate linking URLs are used on your website for purposes of proper tracking. We will send or grant you access to quarterly reports summarizing all tracked sales activity occurring through your Affiliate Links. The form, content, and frequency of the reports may vary from time to time at our discretion.

## **6. Responsibility for Your Website.**

You are solely responsible for the development, operation, and maintenance of your website, and for all materials that appear on your website. We disclaim all liability for these

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 website.

**7. Other Participant Responsibilities.**

A. You may not read, intercept, record, redirect, interpret, or fill in the contents of any electronic form or other materials submitted to us by any person or entity.

B. You may not in any way modify, redirect, suppress, or substitute the operation of any button, link, or other interactive feature of our website.

C. You may not make any orders or subscription requests, or engage in other transactions of any kind on our website, on behalf of any third party, nor may you authorize, assist, or encourage any other person or entity to do so.

D. You may not take any action that could reasonably cause any customer confusion as to our relationship with you, or as to the website on which any functions or transactions (e.g., search, order, browse, and so on) are occurring.

E. You may not attempt to intercept or re-direct (including, without limitation, via user-installed software) traffic from or on, or divert Referral Fees from, any other website that participates in the Program.

F. During sessions initiated through any of your Affiliate Links, you may not purchase products for resale or for commercial use of any kind without our written permission. This includes orders for, or on behalf of, customers. At our sole discretion, such purchases may result in the withholding of Referral Fees or the termination of this Agreement.

G. You agree to notify us in a timely manner by email, telephone, and/or mail about any change in your physical address, contact information, or URL, or of a significant change to the content of your website.

**8. Trademark License.** We hereby grant you a non-exclusive license to use the Birthday in a Box logo, trademark and links (collectively referred to as the "Mark") on your website, but only in conformity with the Agreement. We may terminate the foregoing license if, in our sole discretion, your use of the Mark does not conform to our standards. You agree to display the Mark—in the exact form provided and in conformance with any trademark usage policies that we may establish—on your homepage and/or in other prominent locations on your website. You may not form any combination marks with the Mark. You agree that title to, and ownership of, the Mark shall remain with us at all times. You shall not take any action inconsistent with our ownership of, or goodwill associated with, the Mark. You agree that any benefits and goodwill arising from your use of the Mark shall inure solely to our benefit.

**9. Referral Fees.**

A. For as long as you are a Participant, we will pay you a Referral Fee based on the merchandise sales volume calculated separately for each month. The Referral Fee you receive will be 12% of each Referral Order's "Sale Price." The exact commission rate used to calculate your Referral Fee will be based on the following Referral Fee Schedule:

<b>Level</b>	<b>Net Monthly Revenue</b>	<b>Commission</b>
Level 2	\$501 or greater	15%
Level 1	Below \$501	12%

You understand and agree that each "Referral Order" is based on a visitor clicking on a Link posted on your website and, subsequently, placing an order with us during the same session or within 30 days of first linking to our site, if and only if, the session cookie is still active. A session cookie persists 30 days unless the visitor declines the Cookie or deletes the Cookie from his or her hard drive. Further, if the same customer returns to our site by linking through another Birthday in a Box marketing partner or affiliate within 30 days of first linking through your site during a later session and makes a purchase, the purchase will not generate revenue for you despite the fact that the customer previously entered our website via one of your Links. If a cookie is deleted, declined or overwritten, no sale will be associated with your Affiliate account. In addition, purchases paid for with Gift Certificates are not considered Referral Orders and are not eligible to earn Referral Fees. For purposes hereof, Sale Price means money actually received by us from the sale of our products, less discounts, shipping, handling, returns, and sales tax charges.

B. You may not attempt to circumvent the Referral Fee Schedule or artificially increase your Referral Fees by, among other things, intentionally featuring or purchasing, or requesting or encouraging any third party to purchase, low-price items offered on our website (as determined by us) for the purpose of exceeding any Referral Fee threshold. Such conduct will be a material breach of this Agreement.

C. We will pay you any Referral Fees earned by check on a quarterly basis approximately 30 days following the end of each calendar quarter. Referral Fees less than \$20 may be held until the quarter in which aggregate Referral Fees equal at least \$20. All payments will be in U.S. dollars and drawn on a U.S. bank.

D. With respect to returned products, an amount equal to the applicable Referral Fees previously paid to you will be deducted from future payments; or, if there are no future payments, you will be billed for any such amount.

**10. Prohibition Against Solicitation for Same State Resident Affiliates.** As a condition of its participation in the Birthday in a Box Affiliate Program, Affiliate agrees that its solicitation activities on behalf of Birthday in a Box within its own state (specifically including, California, Connecticut, Hawaii, Massachusetts, Minnesota, New York and Tennessee) shall be

limited to only providing a link on Affiliate's website to Birthday in a Box's own website. Moreover, the Affiliate agrees that it shall not sell products to residents or businesses with the Affiliate's state where it is located. Affiliate acknowledges that under current New York State law (as well as the laws of certain other states) further solicitation and promotional activities by Affiliate within New York state may subject Birthday in a Box to liability for collecting New York State sales tax on all sales to New York customers. Therefore, as a condition of participation in the Birthday in a Box Affiliate Program, Affiliate is prohibited from engaging in any solicitation activities in its state intended to refer potential customers to Birthday in a Box, including, but not limited to: (i) distributing flyers, coupons, newsletters and other printed materials, or electronic equivalents of such materials; (ii) engaging in verbal solicitation, including in-person referrals or initiating telephone calls; and (iii) sending emails intended to refer customers to Birthday in a Box. Proof of compliance must be sent to Birthday in a Box on an annual basis (by May 31 of each year) or Affiliate may be removed from the program. The instructions and compliance form are available at the end of this agreement and at: [http://images.birthdayinabox.com/affiliateads/biab\\_affiliate\\_compliance\\_form.pdf](http://images.birthdayinabox.com/affiliateads/biab_affiliate_compliance_form.pdf). Read the instructions, complete and submit the last page of the compliance form to Birthday in a Box. If the Affiliate is an organization, club or nonprofit group, the Affiliate shall maintain prominently on its website information alerting its members to the prohibition against solicitation activities in New York State as well as the other states described above. Further, you will indemnify and hold us harmless from all claims, damages, and expenses (including, without limitation, attorneys' fees) relating to the failure to collect sales tax that arises from a violation of this Section.

**11. Monthly Bonuses.** Birthday in a Box may develop bonuses for qualifying Participants by means of monthly or other referral promotions. Compensation may vary depending on the promotion. All Participants will be informed of upcoming promotions via an Affiliate newsletter, email messages, and/or the Affiliate Website.

**12. Publicity.** You shall not create, publish, distribute, or permit any written material that makes reference to Birthday in a Box without first submitting such material to us and receiving our prior written consent. We may publish and promote your name as an Affiliate with your prior written consent.

**13. Agreement Cancellation/Termination.**

A. Commencement. The term of this Agreement will begin as of the date Birthday in a Box notifies you that Birthday in a Box has accepted you as an Affiliate. Birthday in a Box may modify any of the terms and conditions contained in this Agreement at any time in its discretion except the Referral Fees described above. You will be notified of any changes via email by a change notice.

B. Termination. For twelve (12) months after execution of this Agreement, only Birthday in a Box may cancel or terminate this Agreement at any time and for any reason by written notice to you (unless Birthday in a Box has failed to timely pay Referral Fees and does not cure such default within thirty (30) days of receiving notice of such default). After twelve (12) months following execution of this Agreement, you may elect in writing to terminate this

Agreement by providing thirty (30) days prior written notice. Upon termination of this Agreement, you will immediately cease use of, and remove from your website, all links to our website and all Birthday in a Box trademarks, trade dress, and logos, as well as all other materials provided by, or on behalf of, us to you pursuant hereto or in connection with the Program. We may withhold payment of the final Referral Fee for a reasonable amount of time to allow for product returns.

**14. Agreement Modifications.** We may modify any of the terms of this Agreement (with the exception of the Referral Fee, which may only be modified twelve (12) months after execution hereof) upon seven (7) days' notice by posting such change on <http://affiliates.birthdayinabox.com>, and/or by providing you with written notice of such change. Your continued participation in the Program after such notice shall be deemed acceptance of the revised terms.

**15. WARRANTY DISCLAIMER.** WE MAKE NO WARRANTIES OR REPRESENTATIONS OF ANY KIND WITH REGARD TO THE PROGRAM OR ANY PRODUCTS SOLD UNDER IT, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, TITLE, NON-INFRINGEMENT, OR ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. WE DO NOT WARRANT THAT OUR WEBSITE OR PRODUCT WILL BE ERROR FREE, FUNCTION WITHOUT INTERRUPTION OR THAT ANY ERRORS WILL BE CORRECTED. IF, AS A MATTER OF LAW, WE MAY NOT DISCLAIM ANY WARRANTY, THE SCOPE AND DURATION OF SUCH WARRANTY SHALL BE THE MINIMUM PERMISSIBLE UNDER APPLICABLE LAW.

**16. Limitations on Liability.**

WE WILL HAVE NO LIABILITY OF ANY SORT ARISING FROM ANY INTERRUPTIONS OR ERRORS IN OUR WEBSITE. WE SHALL HAVE NO LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF REVENUE OR PROFITS ARISING UNDER, OR WITH RESPECT TO, THIS AGREEMENT OR THE PROGRAM, EVEN IF WE WERE ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, OUR AGGREGATE LIABILITY ARISING UNDER, OR WITH RESPECT TO, THIS AGREEMENT OR THE PROGRAM SHALL IN NO EVENT EXCEED THE TOTAL REFERRAL FEES PAID, OR PAYABLE BY US, TO YOU UNDER THIS AGREEMENT.

**17. Acknowledgment & Acceptance of the Terms.** By submitting your Application, you acknowledge that you have carefully read and reviewed this Agreement in its entirety and agree to all its terms and conditions.

**18. General Provisions.**

A. Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of Maryland as applied to agreements made, entered into and performed entirely in the State of Maryland by Maryland residents, notwithstanding your actual residence or principal place of business. Both parties hereby submit to the personal jurisdiction of the state courts located in Maryland, and further agree that any cause of action arising under this Agreement shall be brought in such courts.

B. Severability. If any provision herein is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. In case any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

C. Independent Contractors. The parties are independent contractors, and no agency, partnership, joint venture or employee-employer relationship is intended or created by this Agreement. You shall make no warranties or representations on our behalf.

D. Notice. Any notices hereunder shall be given: if to us, at Birthday in a Box, Inc., 7951 Cessna Avenue, Gaithersburg, MD 20879, Attn: Affiliate Program Manager; and, if to you, sent to the address specified in your Application, or at such other address as each party shall specify in writing from time to time in accordance with the procedures set forth in Section 7(g) of this Agreement. Notice shall be deemed given: upon personal delivery; upon confirmation of receipt if sent by fax or e-mail; or, 5 days after the date of mailing if sent by certified or registered mail, postage prepaid.

E. Entire Agreement. This Agreement sets forth the entire and final understanding and agreement of the parties, and supersedes any and all oral or written agreements or understandings between the parties, as to the subject matter hereof. Except as otherwise provided herein, this Agreement may be changed only by a writing signed by both parties. The waiver of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

F. Survival. Section 4, 7, 8, 15 and 16 shall survive any termination or expiration of this Agreement.

G. Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto and shall inure to the benefit of and be enforceable by each party.

H. Attorneys' Fees. In the event that any suit or action is instituted to enforce

any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

I. Titles and Subtitles. The titles of the sections and subsections of the Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

J. Pronouns. All pronouns contained herein, and any variations thereof, shall be deemed to refer to the masculine, feminine or neutral, singular or plural, as to the identity of the parties hereto may require.

**BY SUBMITTING THIS APPLICATION, I INDICATE MY APPROVAL OF THIS AGREEMENT AND DESIRE TO BECOME A BIRTHDAY IN A BOX AFFILIATE UNDER THESE TERMS BY FILLING OUT AND SUBMITTING THE BIRTHDAY IN A BOX APPLICATION FORM, AND FURTHER AGREE THAT: (i) I HAVE READ THIS AGREEMENT AND UNDERSTAND ALL OF ITS CONTENTS; AND, (ii) IF MY AFFILIATE APPLICATION IS ACCEPTED IN ACCORDANCE WITH THIS AGREEMENT, I WILL BE BOUND BY ALL OF THE TERMS AND CONDITIONS IN THIS AGREEMENT.**



**Birthday in a Box [Enter Your State] Affiliate Compliance Form**

**Instructions:**

1. Please fill out the last page of this Agreement in its entirety and submit to Birthday in a Box. By accepting this Agreement, you accept Attachment B and represent that the statements therein are accurate for June 1 through May 31 of the prior year.
2. Form must be returned by May 1st, 2009 or Affiliate may be removed from the Birthday in a Box Affiliate Program.
3. Form should be printed on letterhead, if available.
4. Form may be faxed, mailed or scanned/e-mailed

**Mailing Address:**

Birthday in a Box

Attn: Affiliates [Enter Your State] Affiliate Compliance

7951 Cessna Avenue

Gaithersburg, MD 20879

Fax: 301-947-1466

Scan & E-mail: [nicole.beidler@birthdayinabox.com](mailto:nicole.beidler@birthdayinabox.com)

If you have any questions, please e-mail [nicole.beidler@birthdayinabox.com](mailto:nicole.beidler@birthdayinabox.com)

Attachment A



Proof of compliance with prohibition against solicitation:

Affiliate (“Affiliate”) does hereby swear to the following:

A. During the past year of June 01 through May 31, Affiliate has adhered to the guidelines set forth in its affiliate agreement. Affiliate has not engaged in any of the prohibited activities including, but not limited to: (i) distributing flyers, coupons, newsletters and other printed materials, or electronic equivalents of such materials; (ii) engaging in verbal solicitation, including in-person referrals or initiating telephone calls; and (iii) sending emails intended to refer customers to Birthday in a Box. The only promotional methods Affiliate has used are promotion of its own website and Affiliate has not directly solicited on behalf of Birthday in a Box.

B. If Affiliate is an organization, club or nonprofit group only, Affiliate’s website includes information directed at its members alerting them to the aforementioned prohibition against solicitation activities.

C. Affiliate acknowledges and agrees that this certification and any information submitted with it is subject to verification and audit by the Affiliate’s state’s State Tax Department.

This pertains solely to organizations, clubs and nonprofit groups. The Affiliate must include notice on its website reminding all members about these conditions. All annual certifications shall be signed by a person with the authority to enter binding contracts on behalf of the organization and shall include the name and address of the person signing the certification.

**BY SUBMITTING THE APPLICATION, I HEREBY SWEAR OR AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND ACCURATE, AND I AGREE TO SUBMIT THE FOLLOWING COMPLETED AND EXECUTED FORM TO YOU UPON REQUEST BY BIRTHDAY IN A BOX.**

Attachment B

FORM TO BE SUBMITTED:  
(Complete and Return to Birthday in a Box)

Proof of compliance with prohibition against solicitation:

I, \_\_\_\_\_, an Affiliate of Birthday in a Box (“Affiliate”), pursuant to an Affiliate Agreement which I entered into via the Internet, do hereby swear to the following:

A. During the past year, JUNE 01, 20\_\_ - MAY 31, 20\_\_, Affiliate has adhered to the guidelines set forth in its affiliate agreement. Affiliate has not engaged in any of the prohibited activities including, but not limited to: (i) distributing flyers, coupons, newsletters and other printed materials, or electronic equivalents of such materials; (ii) engaging in verbal solicitation, including in-person referrals or initiating telephone calls; and (iii) sending emails intended to refer customers to Birthday in a Box. The only promotional methods Affiliate has used are promotion of its own website and Affiliate has not directly solicited on behalf of Birthday in a Box.

B. If Affiliate is an organization, club or nonprofit group only, Affiliate’s website includes information directed at its members alerting them to the aforementioned prohibition against solicitation activities.

C. Affiliate acknowledges and agrees that this certification and any information submitted with it is subject to verification and audit by the Affiliate’s state’s State Tax Department.

I HEREBY SWEAR OR AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND ACCURATE:

Affiliate Name (Must Print):

\_\_\_\_\_

Affiliate Address (Must Print):

\_\_\_\_\_

Signature: \_\_\_\_\_

Signatory Name and Address (only if Affiliate is an organization, club or nonprofit group):

\_\_\_\_\_

Affiliate ID: \_\_\_\_\_

Date: \_\_\_\_\_

For Organizations, Clubs and Non-Profit Groups ONLY

This pertains solely to organizations, clubs and nonprofit groups. The Affiliate must include notice on its website reminding all members about these conditions. All annual certifications shall be signed by a person with the authority to enter binding contracts on behalf of the organization and shall include the name and address of the person signing the certification.