



# **AFFILIATE AGREEMENT**

**Affiliate Agreement****IT IS AGREED:****1. Definitions of terms**

**Account:** The uniquely assigned account that is created for each Client when he completes an account application via the Website and is approved by the Company;

**Affiliate:** Means a legal or natural person that has signed up to direct internet traffic to the website of the Company and/or its affiliated entities and who received confirmation from the Company, in accordance with the terms of this Agreement;

**Affiliated entities:** Means any person, a subsidiary of that person or any other entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Company;

**Affiliate Portal:** The portal available through the Affiliate Program website through which the Affiliate can access their account;

**Agreement:** Means this Agreement between the Company and the Affiliate, which may be amended from time to time;

**Client:** Means a legal or natural person which is a prospective client of the Company or its affiliated entities, after the Company or its affiliated entities, at their sole discretion, successfully undertook an assessment of such person's knowledge and experience for trading in CFDs or other products the Company may offer, properly identified the client, and has otherwise completed a client on boarding process in accordance with the terms of this Agreement;

**Confidential**

**Information:** Means any data or information of either party, including oral, written or electronic data or information including past, present or future research, development or business activities, and including without limitation, any information relating to developments, inventions, processes, plans, trading information and financial information. The Confidential Information shall not include information that is available in the public domain, not as a result of the actions of the receiving party, that was known to and/or developed by the receiving party prior to its receipt from the disclosing party, or that was lawfully received by the receiving party from a third party without obligation of confidence;

**Company:** Means Notesco Limited with incorporation number 51491, and having its registered address at: Veritas Place, 6th Floor, 65 Court Street, Hamilton HM 12, Bermuda, operating as 'Fxcross';

**Compensation Plan**

**Or CPA:** Means the fees and/or commissions payable to the Affiliate as detailed in the Affiliate Portal when the Terms & Conditions of this Agreement are satisfied, and which are subject to change at the Company's discretion;

**Intellectual**

**Property Rights:** Means without limitation patents, know-how, trademarks, rights to inventions, copyright and related rights, trade marks, business names and domain names, lists and information on any Clients, information on business or trading practices and remuneration, Client incentive and loyalty schemes, commission or other similar incentive schemes for affiliates and other business partners, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

**Non-Active**

**Affiliate:** Any Affiliate generating Client(s), directly or indirectly via Parent-Affiliates and/or Sub-Affiliates, who is non-active during any consecutive three (3) month period;

**Parent-Affiliates**

**and Sub-Affiliates:** Parent-Affiliates and Sub-Affiliates: Subject to the Company's prior written approval, an Affiliate may become a Parent-Affiliate and refer any third party who is not and has not been registered as an Affiliate, Sub-Affiliate or Parent-Affiliate. Any Affiliate who is referred by the Parent-Affiliate and was approved by the Company will be considered for that Parent-Affiliate its Sub-Affiliate;

**Program:** Means the Company's Affiliate Program which can be found at <https://www.fxcross.com/partners/affiliates/>;

**Sub-Affiliate:** Any person or entity which the Affiliate has referred to this program as a sub-affiliate, and provided such person or entity has approved by the Company or on behalf of the Company by a member of the Company

for which the Affiliate and the Company shall determine the Sub-Affiliate Fee as required from time to time;

**Sub-Affiliate Fee:** The amount payable to the Sub-Affiliate in accordance with the above clause of Sub-Affiliate;

**Referring URL:** Means the URL belonging to the Affiliate which identifies the internet origin (i.e. website) from which the Client was referred/directed;

**Tracking URL:** Means the unique URL that is generated when a Client clicks on a Company banner on the Affiliate's website or online network or any online media approved by the Company. The URL is used by the Company to track the Client who has been directed to the Company's website by the Affiliate's website or online network or online media approved by the Company;

**Tracker(s) ID:** Means the unique alphanumeric code created automatically by the Company for the purpose of identifying the Affiliate and his/her clients;

**Trademark:** Means the Company's and/or its affiliated entities' registered Trademarks, "Fxcess" including all other related trademarks as they are locally and international recognized and protected under international and local laws;

**Trading Platform:** Means the electronic trading facility offered by the Company and/or its affiliated entities (e.g. MetaTrader platform) through which a Client may send information including prices, orders, bids, offers and executions for the purposes of trading with or through the Company or its affiliated entities;

**Qualified Trader:** Means a referred Client who meets the conditions set out in this agreement (i.e. trading volume);

**Website:** Means the website operated by the Company ([www.Fxcess.com](http://www.Fxcess.com)) and the website(s) operated by the Company's affiliated entities.

## **2. Engagement**

**2.1** During the term of this Agreement, the Affiliate undertakes to use its best efforts to actively and effectively market and promote the Company and/or its affiliated entities' website through the Affiliate's website.

**2.2** Subject to the terms and conditions of this Agreement, the Company hereby grants to the Affiliate and the Affiliate hereby obtains from the Company a non-exclusive, personal, non-transferable, non-assignable and non-sub-license for the term of this Agreement, to display the Company and/or its affiliated entities in the Affiliate's Website solely for the purpose of promoting and marketing the Company's services and/or the Trading Platform. The Affiliate acknowledges and agrees that: (a)

he/she/they will use the Company and its affiliated entities' brands only as permitted hereunder; (b) he/she/they will use the Company and/or its affiliated entities' brands in a lawful manner and in strict compliance with all format(s), guidelines, standards and other requirements prescribed by the Company; (c) the Company and its affiliated entities' brands are and shall remain the sole property of the Company; (d) nothing in this Agreement shall confer in the Affiliate any right of ownership in the Company's brands and all use thereof by the Affiliate shall inure to the benefit of the Company; and (e) the Affiliate shall not, now or in the future, attempt to register any of the Company Brands and/or domain name and/or contest the validity of any of the Company Brands or use any term or mark confusingly similar to any of the Company Brands.

- 2.3** It is hereby agreed and clarified that the Affiliate shall not be permitted to market the Company on any Internet website on which the Company promotes the Trading Platform and/or in any other manner which results in the Affiliate competing with the Company in relation to the promotion of the Trading Platform. In addition, the Affiliate shall not carry out search engine marketing of the Trading Platform using the word "Fxcess" or any other name confusingly similar to "Fxcess". In the event that the Affiliate is in breach of the foregoing provisions, the Company reserves the right to immediately terminate the Agreement pursuant to the terms specified in the relevant section below.
- 2.4** The Company shall have the sole and absolute discretion in connection with the rejection or refusal of any Client to register to and/or trade with the Company.
- 2.5** Any and all rights not granted under this Agreement to the Affiliate in the Trading Platform (if any) are expressly reserved by the Company.
- 2.6** The Company reserves the right to take legal actions against the Affiliate in the event the Affiliate shall attempt to manipulate the Company and/or the Trading Platform and/or abuse the Company's Affiliate Program. Without limitation of the foregoing, the Company reserves the right to withhold, set off and/or deduct from any payment due to Affiliate hereunder in the event of such manipulation and/or abuse and may also terminate this Agreement with immediate effect.

### **3. Affiliate Representation and Warranties**

- 3.1** The Affiliate hereby represents, warrants, covenants and agrees to the Company as follows:
- 3.2** The Affiliate has all requisite authority to enter into this Agreement and to be fully bound hereby, and all necessary action has been taken by him in connection herewith. The Affiliate acknowledges and confirms that he can enter into this Agreement and is approved and/or authorised and/or qualified under his local regulatory requirements to offer the services mentioned in this Agreement.
- 3.3** The Affiliate has fulfilled all registration, qualification and/or other requirements of all jurisdictions and regulatory bodies to the extent that such registration, qualification

and/or other requirements are applicable to him during the term of the Agreement and will remain in strict compliance with all of the foregoing.

- 3.4** If the Affiliate is a company or other entity, the Affiliate is duly organised, validly existing and in good standing under the laws of his jurisdictions.
- 3.5** There is no action or proceedings pending against the Affiliate or any of its officers or directors in their capacities as officers and directors of the Affiliate before any Court, administrative agency or other tribunal which might have a material adverse effect on its or the Company's business or condition, financial or otherwise, or its operation. No director, officer, key employee or member of the Affiliate's senior management has a criminal record or criminal prosecution and/or investigation pending.
- 3.6** The Affiliate will carry on his operations and business as an independent contractor and not as an agent or employee or representative of the Company. The Affiliate cannot use the Company's logo in any of his correspondence, on any business cards or on any electronic transmission, etc.
- 3.7** The Affiliate acknowledges and agrees that he/she is responsible for the payment of all relevant duties and/or charges and/or taxes arising from the course of his business.
- 3.8** The Affiliate acknowledges that he/she is not allowed to register a business that includes the trademarks of the Company as duly defined above. Furthermore, the Affiliate acknowledges that he/she is not allowed to register and/or operate a domain name that includes the "FxcCESS" name.
- 3.9** The Affiliate further acknowledges that he/she is not allowed to use and/or register a Trademark and/or domain name which is similar in appearance, designation and notion and/or which could reasonably provide a misleading association with the business and goodwill of the Company.
- 3.10** The Affiliate acknowledges that he/she is not allowed to use and/or register Trademarks and/or domain names which are in connection with the name "FxcCESS" and particularly if such marks consist of one word and are inseparably combined (in its entirety).
- 3.11** The Affiliate acknowledges that he/she is not allowed to market directly or indirectly to potential Clients on any website which the Company actively promotes its services and products and/or in any other manner which results in the Affiliate competing with the Company in relation to the Company's website.

The affiliate is not allowed to use instant messaging or email, to redirect the prospect client. Similarly, the Affiliate must not be in direct contact with prospect client. The client can only be redirected to the Company from the Affiliate online network or online media using a unique Tracking URL. This URL is embedded within the Company marketing tools (e.g. banner) which are available on the Company's Affiliate Portal.

- 3.12** Neither the execution nor the delivery of this Agreement nor the fulfillment of or compliance with the terms and provisions hereof by the Affiliate shall contravene any provision of law including, without limitation, any statute, rule, regulation, judgment, decree, order, franchise or permit applicable to the Affiliate.
- 3.13** In the case where the Affiliate intends to use any information or functionalities relating to the Company and its services to means other than affiliate's website the Affiliate is required to obtain the Company's prior approval.

The relationship between the Affiliate and the Company shall be governed by this Agreement. This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Bermudian law. The Affiliate hereby irrevocably agrees that the Bermudian courts have exclusive jurisdiction and accordingly submits to the jurisdiction of the Bermudian courts in relation to any matter arising in connection with this Agreement (including regarding its existence).

- 3.14** This Agreement is a legal and valid obligation binding upon it and is enforceable in accordance with its terms. The execution, delivery and performance of this Agreement by the Company does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any Court, governmental body or administrative or other agency having authority over it;
- 3.15** The Company is a lawful owner/lawful licensee of the Intellectual Property Rights in the Trading Platform and in the Company Brands.

#### **4. Affiliate Relationship and Activities**

- 4.1** In the event that the Affiliate deviates from the standard interpretation of this Agreement, it will be considered that he/she has breached the Agreement unless he/she has obtained written confirmation from the Company.
- 4.2** The Affiliate undertakes that its marketing activity and/or any content to be posted and/or published in the Affiliate's Website shall not be directed toward minors and/or engage in any other practices which may affect adversely the high image, credibility or reputation of the Company, its services and/or its Trading Platforms, including without limitation of the generality of the foregoing, material that is in breach of and/or infringes any Intellectual Property Rights of any third party (including any material copied from third parties without their permission) and/or including any false, misleading or disparaging representations or statements with respect to the Trading Platform and/or the Company.
- 4.3** Without prejudice to the obligations of the Affiliate under this agreement the Company is not responsible and has no liability for any advice or recommendation or decision provided by the Affiliate to the Client.
- 4.4** For the Affiliate to be eligible for any fees with regards to the Client, he has to meet all requirements set in this Agreement.

- 4.5** The Company's marketing materials, including but not limited to the logos, banners and videos, should be clearly placed on the Affiliate's website or other online referral media or network, in order to redirect the prospective Clients to the Company's Website. Each client must be unique therefore will have a unique IP and Tracker ID. The client's IP Address must be identifiable and must be different from the Affiliate's IP Address. The client's referring URL must also be identifiable.
- 4.6** The Affiliate is granted a non-exclusive, non-transferable right to display the Company's mark and any banners as these will be approved by the Company to display on his website for the sole purpose of providing a link for the Affiliate's website to refer internet traffic to the Company's website.
- 4.7** The Affiliate is required to obtain the Company's approval prior to uploading any information or functionalities relating to the Company and its services. In the case where the Affiliate intends to change the Company's information and/or functionalities that were initially provided and approved by the Company, then the Affiliate needs to obtain a new approval by the Company before he/she proceeds with such changes.
- 4.8** In the event of any disparity between the claim(s) made by the Affiliate and the Company with regards to the referred Client, the Company shall have the sole discretion in accepting or rejecting the claim(s) of the Affiliate.
- 4.9** Any referred Client, who opens an account with the Company, will be considered the Company's Client, and shall follow the Company's procedure for the opening of a trading account with the Company.
- 4.10** The Company may at its sole discretion accept or decline any Client referred by the Affiliate.
- 4.11** In the event of a referred Client being directed to the Company via the referring URL belonging to the Affiliate and the link of an Introducing Broker at the same time, the Company shall allocate the Client upon its discretion.
- 4.12** The Affiliate undertakes the necessary precautions to ensure the confidentiality of all information, including, but not limited to, the access codes of the Program, transaction activities and any other information that be accessible by him via the Program. The Affiliate acknowledges that the Company bears no responsibility in case the access codes are used unauthorised by any third party. The Affiliate is strongly advised not to use any public computer to login with his access codes. The Affiliate should always logout from the Company's Program.
- 4.13** The Affiliate undertakes to notify the Company immediately if it comes to his attention that the Program's access codes provided to him are being used unauthorised.
- 4.14** The Company is not liable or responsible for any marketing or promotions initiated by the Affiliate and for any costs or charges for such activity. The costs will be met by the Affiliate.



**5. Compensation Scheme**

**5.1** The Affiliate shall be entitled to receive fees as detailed in the Commission Plan for the Affiliate available on the Affiliate Portal, provided the following criteria are met:

- a. The Referred Client has been approved by the Company and has opened a trading account with the Company (excluding STP/ECN accounts);
- b. The Client traded at least 4 round turn lots (CFD Shares and Spot Indices are excluded) with its own deposited funds excluding any bonus amount added in its account.
- c. The Client's trades must be at least 2 minutes in duration in order to qualify under the CPA.
- d. Applicable CPA will be capped at total deposit amount, when client becomes a qualified trader.
- e. The Client is a Direct Client and is not under any referring Broker relationship.
- f. The Affiliate acknowledges that the fees provided in the CPA plan below are indicative rather than definitive. The Company reserves the right to unilaterally modify or update the scheme at any time, without the Affiliate's consent by giving at least five (5) business days prior to the amendments and/or modifications coming into force.
- g. The Affiliate must have completed the age of 18
- h. The Company does not accept Clients of certain jurisdictions such as USA, Cuba, Sudan, Syria and North Korea.

**5.2** Payment terms: Any payments and/or fees due to the Affiliate in respect of Qualified Clients referred by the Affiliate will be calculated on a weekly basis, following the calendar week during which such fees have been generated subject to clause 5.1 above. Relevant payments will be made to Affiliates on a weekly or bi-weekly or monthly basis, at the discretion of the Company.

The Affiliate must have accumulated a minimum of USD 1,000 (or its equivalent in another currency) in eligible commission payments before any payments and/or fees are credited to the Affiliate's trading or commission account.

**5.3** Method of payment: Any fees will be credited to the Affiliate's trading or commission account opened with the Company in accordance with the Company's Terms of Business.

The Affiliate will be able to request a withdrawal from his trading or commission account to be executed via bank wire transfer (applicable fees may apply).

**5.4** Notwithstanding any other provision in this Agreement, the Company may, in its sole and absolute discretion, withhold, delay or deny payment of the Affiliate Fee in any of the following events:

- a) The Company has reason to suspect that the Affiliate's activity is not in compliance with any applicable laws or regulations regarding digital advertising;

- b) The Company has reason to suspect that the Affiliate's activity is in breach of this Agreement;
- c) The Affiliate has failed to complete any form as may be required by the Company or has entered misleading or incorrect information in a form provided by the Affiliate to the Company;
- d) The Affiliate has failed to provide any document as may be demanded by the Company; and/or
- e) The Company has been notified by any third party of the alleged infringement of property or rights (e.g. intellectual property rights) by the Affiliate or by the Affiliate's activity.

In addition, the Company may in its sole and absolute discretion, withhold, delay or deny payment of the Affiliate Fee in relation to any Clients where:

- f) The Client has created a duplicate profile;
- g) The Client has any chargebacks to their account;
- h) The Client traded only the minimum trades/lots needed for the Affiliate to qualify under the CPA, with no trading activity over the following 5 (five) business days;
- i) The Client traded only the minimum trades/lots needed for the Affiliate to qualify under the CPA, and then withdraws more than 70% of the original deposit within 2 (two) business days;
- j) The Client's first-time deposit triggers fees under the CPA, but the Client makes a partial withdrawal and only trades on the remaining amount which would have been subject to a lower CPA. In such instances the Affiliate will be compensated in accordance with the lower CPA amount.

The Affiliate hereby irrevocably waives its rights to, and shall indemnify the Company and any member of the Company for, any claim or demand made against the Company or any member of the Company, their directors, officers, shareholders, employees or against any Website in respect of the exercise by the Company of its rights in this clause.

**5.5** If the Affiliate does not provide their payment details within two (2) months of the issue of the first commission, all payments will be removed.

**5.6** Non-Active Account: Notwithstanding any other provision in this Agreement, a Non-Active Affiliate shall not be entitled to receive any Affiliation Fee from the Company, while his account will be deactivated.

**5.7** Holdover for Fraud Traffic:

- (a) Notwithstanding any other provision in this Agreement, in the event that any activity in the Affiliate's account, or in any account which appears to be controlled or managed by the Affiliate, is deemed suspicious by the Company in its sole determination, the Company may, in its sole and absolute discretion, delay payment

of the Affiliate Fee to the Affiliate for up to one hundred and eighty (180) days in order to verify the suspicious activity.

- (b) In the event that the Company determines that an activity constitutes Fraud Traffic, the Company shall recalculate or withhold the Affiliate Fee, in its sole and absolute discretion.
- (c) Notwithstanding the terms of this Agreement, if the Company determines that an Affiliate is involved, whether directly or indirectly in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to the Company, including without limitation to the Website, Account(s), Sub-Affiliate(s) and/or Referred-Affiliate(s) the Company shall have the right, in addition to any other right or remedy available to it under this Agreement or applicable law, to render the Tracking URLs assigned to such Affiliate inoperative, and immediately block Affiliate's access to the Program, with no compensation to Affiliate. The Affiliate hereby irrevocably waives its rights to, and shall indemnify the Company and any member of the Company for, any claim or demand made against the Company or any member of the Company, their directors, officers, shareholders, employees or against any Website in respect of the exercise by the Company of its rights in this clause.

**5.8** In addition to any other terms and conditions set forth anywhere in this Agreement or under applicable law, Affiliate shall not be entitled to receive any fees for any Client or any other type of traffic entitling the Affiliate for payment unless and until the foregoing has been approved and qualified by the Company. For the removal of any doubt it is hereby clarified that the Company reserves the right, at its sole and absolute discretion, to change, modify, add or remove, at any time, any criteria applying to any of the compensation plans, including without limitation, setting any baseline, threshold, minimum deposits/earning and/or other requirement(s) for qualifying into any of the compensation plans and/or for receiving any fees set forth herein.

**5.9** The Company reserves the right to alter the Compensation Plan at any time. The Affiliate should always refer to their Affiliate Portal for their current Compensation Plan. For more details, please contact [affiliates.support@Fxcess.com](mailto:affiliates.support@Fxcess.com).

## **6. Notices and Communication**

**6.1** Unless otherwise specified, the Affiliate has to send any notice, instruction, request or other communication in writing by email to [affiliates.support@Fxcess.com](mailto:affiliates.support@Fxcess.com).

**6.2** All notices/information provided by the Company or received from the Affiliate should be in the English language.

## **7. Provision of Information, Data Protection**

**7.1** The Affiliate shall promptly provide the Company with any information which the Company may request as evidence for the matters referred to in the Agreement or to comply with any Applicable Regulations or otherwise, and will notify the Company if there are any material changes to such information.

- 7.2** It is the Company's policy to take all necessary steps to ensure that personal data held, is processed fairly and lawfully in accordance with the Personal Data Law.
- 7.3** By visiting and/or accessing this website, you consent to us to collect, maintain and use your personal information as per this policy.
- 7.4** The Company holds personal data relating to the Affiliate in connection with the provisions of this Agreement except to the extent that the Company is required or permitted by law. Personal data provided to or obtained by the Company will be used for the purposes of this Agreement. The Company has the right without informing the Affiliate to inform any third parties or authorities in regards to the Affiliate's personal information, transactions or any other information as it may deem necessary in the case where the Affiliate is directly or indirectly involved in fraud.
- 7.5** We will ask you when required for information that personally identifies you (personal information) or allows us to contact you. Generally, this information is requested when you apply for a demo or a live account with us as well as participating in any offer we promote to our existing or potential clients as well as to any visitors on our websites. The main purposes we use your personal information for to treat you fairly, and to understand your financial objectives and to ensure that relevant services are appropriate to your profile, as well as to provide you with sales and post sales services.

The personal information that will be collected from you includes:

- personal details you provide to us on applications and other forms,
  - financial details such as estimated annual income and net worth and your trading experience and investment knowledge,
  - documents that you provide to us to verify your identity, such as your passport, utility bills, and/or bank statement or your company incorporation details.
- 7.6** According to our regulatory regime we generally need to keep your personal information on record for a period of at least five (5) years, which is calculated after the execution of the transactions or the termination of the business relationship or in the case you wish to terminate your working relationship with us. Subject to that, when we consider information is no longer needed, we will remove any details that will identify you or we will securely destroy the records.

We may use your personal information for one or more of the following purposes:

- to confirm your identity;
- to assess your suitability to the products and services we provide;
- to process your transactions;
- to provide you with transaction and post transaction related services;
- to inform you of products and/or services that may be of interest to you;
- to keep you updated on the issues that are relevant to your business relationship with us;
- to improve the Site;
- to analyse statistical data to enable us to provide you with better products and/or services.

**7.7** We will disclose your personal information, without notice when required to do so by law or in good faith that such action is necessary to: (a) protect our and/or Fxcess's rights and/or comply with any court order or judicial proceedings; (b) avoid any potential fraud; (c) conform to the edicts of the law or comply with a legal process served on us, or the site; (d) protect and defend the rights or property of us, and, (e) act in urgent circumstances to protect the personal safety of users of us, our Websites, or the public.

## **8. Cookies**

**8.1** We use cookies to gather information about your access to our website and other services we provide to you. Cookies are small files of letters and numbers, which use a unique identification tag and if you agree, are stored on your device as a result of you using this website or other services we provide to you. These cookies allow us to distinguish you from other users of our website, which helps us to provide you with a good experience when you browse our website and also allows us to improve our website.

**8.2** Please click at the relevant point on our web page to confirm that you agree to our use of cookies on your device.

**8.3** Most internet browsers are set up to accept cookies. If you do not wish to receive cookies, you may be able to change the settings of your browser to refuse all cookies or to have your computer notify you each time a cookie is sent to it, and thereby give yourself the choice whether to accept it or not. However, this may impair the quality of the services that we provide to you in relation to your account.

## **9. Security and Access**

**9.1** We have taken strong measures to protect the security of your personal information and to ensure that your choices for its intended use are honoured. We take strong precautions to protect your data from loss, misuse, unauthorised access or disclosure, alteration, or destruction.

**9.2** We strictly protect the security of your personal information and honor your choices for its intended use.

**9.3** You also have a significant role in protecting your information. No one can see or edit your personal information without knowing your user name and password, so do not share these details with others.

**9.4** In addition, we, ensure the security of transmission of your payment card details that are protected using Transport Layer encryption-TLS 1.2 and application layer with algorithm AES and key length 256 bit in accordance with the recommendations of Payment Card Industry Security Standards Council.

**9.5** Under the Personal Information Protection Act 2016 (PIPA) you have the right to obtain a copy of any personal information which we hold about you and to advise us of any perceived inaccuracy. The Act sets out some exceptions to this. To make a request, please write to us, verifying your identity and specifying what information you require. We may charge a fee to cover the cost of verifying the application and locating, retrieving, reviewing and copying any material requested. We will acknowledge your request and respond to it within 45 days of receipt of your application and any applicable fee.

## **10. Amendment and Termination**

**10.1** This Agreement will take effect when the Affiliate indicates its acceptance of this Agreement and shall continue until terminated in accordance with the terms of this Agreement.

**10.2** This Agreement may be amended from time to time. Any changes to the Agreement will not apply to transactions performed prior to the date on which the changes become effective unless specifically agreed otherwise. Should the Affiliate disagree with the changes, he/she may terminate the Agreement in accordance with paragraph 7.2 below.

**10.3** Either party (Company or Affiliate) can terminate the Agreement by giving five (5) business days' written notice to the other party.

**10.4** This Agreement will terminate immediately and without notice if:

- a) The other party makes an arrangement with its creditors, cannot pay its debts when they fall due, is declared insolvent or bankrupt or has an administrator or receiver appointed;
- b) A petition is filed, a notice is given, a resolution is passed or an order is made for or in connection with the winding up of the other party;
- c) An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party;
- d) A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- e) The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

**10.5** Affiliate fails to comply with any applicable law or regulation, or breaches any provision of this Agreement that the Company deems to be material.

**10.6** The Company shall reserve the right to terminate without notice, this Agreement or any rights of the Affiliate that may fall under the provisions of this Agreement, due to any malpractice, breach, failure or other significant event, including liquidation or insolvency, on the part of the Affiliate. Such termination will be at the sole discretion of the Company.

- 10.7** The Company has the right to terminate this Agreement in case (i) the Affiliate refers less than three (3) Clients within a ninety (90) days' period from the date of concluding this Agreement

The Company has the right to terminate this Agreement or suspend the payment of any fees due to the Affiliate in case (ii) the referred Client has not met the conditions set out in this Agreement within thirty (30) days from his/her account approval.

- 10.8** Upon termination of this Agreement for any reason, the Affiliate will cease the use of, and remove from the Affiliate's Website, all the Company's and its affiliated entities Marks, Banners and Text Links to the Website within two (2) business days from the notice of termination. The Affiliate shall pay the Company US \$ 100 for each day such the Company's Marks, Banners and Text Links is not removed from Affiliate's website by the Affiliate. Any domain which contains any of the Company's Marks shall be immediately returned or transferred to the Company, at the Affiliate's cost, upon termination of this Agreement with Affiliate for whatsoever reason. The Affiliate shall pay the Company US \$ 1,000 for each day such domain is not returned or transferred to the Company.

- 10.9** Upon termination of this Agreement, the Company warrants to pay the Affiliate any fees due to the latter as set out in this Agreement provided that any such amount has been generated as a result of the proper fulfilment of the terms of this Agreement.

## **11. Governing Language**

- 11.1** This Agreement as well as any additional agreement hereto (both present and future) are made in English. Any other language translations are provided as a convenience only. In the case of any inconsistency or discrepancy between the original English texts and their translation into any other language, the original versions in English shall prevail.

## **12. Applicable Laws and Place of Jurisdiction**

- 12.1** This Agreement and all transactional relations between the Affiliate and the Company are governed by the Laws of Bermuda and the competent court for the settlement of any dispute which may arise between them shall be the District Courts of Bermuda.

## **13. Miscellaneous**

- 13.1** The Company and the Affiliate are independent contractors, and nothing in this Agreement creates any partnership, joint venture or agency relationship between them, grants to the Affiliate authority to make any representation on the Company's on behalf of or make public any information regarding the Company, or prohibits the Company or its affiliated entities from operating.

- 13.2** The Affiliate declares that by accepting this Agreement it consents to, the Company sending, and it receiving, by means of telephone, SMS or email, communications containing newsletters, notifications and any other content of a commercial nature relating to the Website(s) and related services. The consent (whether written or oral)

before sending such communications to the Affiliate, provided that the Company shall immediately cease to send any such further communications should the Affiliate notify the Company in writing that the Affiliate no longer wishes to receive such content.

- 13.3** This Agreement comprises the entire agreement between the Affiliate and the Company, supersedes all prior oral and written agreements pertaining to this Agreement's subject matter, and applies in addition to any other term or condition of the Website(s), unless expressly provided otherwise in this Agreement or agreed between the parties in writing.
- 13.4** The Company or its affiliated entities' failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.
- 13.5** This Agreement and the Affiliate's obligations may not be assigned by the Affiliate, by operation of law or otherwise. The Company may assign this Agreement to any of its affiliated entities' at any time.
- 13.6** These rights of the parties to terminate, rescind or agree any variables, waiver or settlement under this Agreement are not subject to the consent of any other person.
- 13.7** To the extent permitted by the applicable Law:
- a) The Company will not be liable for any loss, liability or cost (including consequential loss) suffered or incurred by the Affiliate as a result of instructions given, or any other communications being made, via the internet;
  - b) The Affiliate will be solely responsible for all orders, and the accuracy of all information, sent via the internet using access codes; and
  - c) The Company is not liable for any loss or damages that may be caused to any equipment or software due to any viruses, defects or malfunctions in connection with the access to, or use of, the Company's Program.