

**BDS LTD**

**AFFILIATION AGREEMENT**

**(Terms & Conditions)**

## **1. Introduction**

**1.1.** BDS Ltd is a company incorporated in the Republic of Seychelles with Certificate of Incorporation No. 202039, with its registered address at Tenancy 10, Marina House, Eden Island, Mahe, Seychelles.

## **2. Acknowledgement**

2.1. This Affiliation Agreement (hereafter “the Agreement-Terms and Conditions”) is entered by and between BDS Ltd (hereafter “the Company” or “BDS Ltd” or “us”) on the one part and the Affiliate (who may be a natural person or a legal entity), who has completed the Company’s affiliate on-boarding procedure and has been accepted by the Company as an Affiliate (hereafter “the Affiliate” or “You”) on the other part.

2.2. This Agreement together with any Addendums, Appendices or Annexes, as amended from time to time, set out the Terms & Conditions upon which the Company will offer the affiliation program and shall govern the business relationship between the contracting parties.

2.3. By accepting this Agreement, the Affiliate enters into a legally binding contract with the Company. The Affiliate acknowledges that (s)he has read, understood and accepted all of the terms and conditions contained in this Agreement without modifications.

## **3. Provision of affiliate services**

**3.1.** By accepting the Terms and Conditions, you agree to act as an intermediary of the Company. In accordance with the Terms and Conditions, you will act as a mediator between the Company and prospective Client(s) for introducing and/or explaining electronically, by using the means of online marketing and without having direct contact or interactions with the client(s), the services that the Company is offering to its clients, and acting as a facilitator that will do all that is necessary for the conclusion of an Agreement between the Company and prospective Client(s). This Agreement and the relevant remuneration are deemed valid for the duration of your intermediary activities.

**3.2.** For the purposes of fulfilling his/her duties under this Agreement and with the aim to secure the conclusion of an Agreement between the Company and the Client, the Affiliate is entitled to proceed to the following actions:

**3.3.** Introduce and promote the products and services of The Company to prospective Clients;

- a) Provide information on the Company and its products and services to prospective Clients;
- b) Distribute to prospective Clients information regarding the Company and its services, through presentations and/or educational seminars or advertising campaigns and events in accordance with the requirement and upon written consent of the Company;
- c) Facilitate explanation of the Company's business and policies;
- d) Collect and process commercial and other information which may be required by the Company in order to assess and evaluate prospective Clients as per clause 5.7. below;
- e) Assist the Company with respect to the presentation and introduction of the Company products and services to prospective Clients;

**3.1.** Perform any other actions provided for or required by this Agreement or applicable legislation.

#### **4. Commencement and duration**

**4.1.** This Agreement shall come into force from the day the prospective Affiliate is approved by the Company as an Affiliate and will continue and/or remain effective for an indefinite period of time unless terminated according to clause 14 - Termination herein.

#### **4.2. Amendments thereof**

**4.3.** The Affiliate acknowledges that the Company reserves the right, at any time and under its sole discretion, to unilaterally amend, modify, update or change any of the terms of this Agreement, Addendum, Appendices or Annexes. In such a case, the Company shall notify the Affiliate of the relevant amendments in the Agreement by giving five (5) business days written notice, prior to the amendments coming in force, or by posting the amendment Agreement on the Company's official website, by indication the date that the amended document will come into force.

**4.4.** All the amendments will come into effect seven (7) business days after the announcement/notice. It is the Affiliate's own responsibility to visit the company's website on a regular basis in order to ensure that (s)he is aware of the latest version of this Agreement.

**4.5.** In case where the Affiliate does not agree with the amended Agreement, (s)he is obliged to terminate the Agreement by notifying the Company in writing within seven (7) business days from the date that the amended Agreement comes into effect. If the Affiliate does not act within the seven (7) day limit, his/her acceptance of the amended Agreement will be assumed, and the terms of the amended Agreement will apply to the Affiliate.

## **5. Scope of the Agreement**

**5.1.** This Agreement is non-negotiable and overrides any previous or other agreements, arrangements, express or implied statements made by the Company unless the Company, in its sole discretion, determines that the context requires otherwise. If you do not agree to be bound by the terms and conditions of this Agreement please cease using our services and inform us in writing immediately by sending an email to [affiliates@bdswiss.com](mailto:affiliates@bdswiss.com) .

**5.2.** In the event of a conflict between the Terms & Conditions of this Agreement expressed in English and the Terms & Conditions of this Agreement expressed in any other language, the Terms and Conditions expressed in English is the governing version and shall prevail over the versions expressed in any other language. In the event of any conflict between the terms of this Agreement and our website, this Agreement will prevail. Our website(s) contain further details about us and our services, and other information relevant to this Agreement.

### **5.3. Definitions and Interpretation of Terms**

Unless indicated to the contrary, references to the below expressions in these Terms and Conditions and any supplementary agreements shall have the following meaning:

**5.4. "Affiliate"** means an independent party (natural or legal person) who is engaged in online advertising/marketing activities and has entered into a business relationship with the Company for the introduction/referral of new clients to the Company, for transactions in CFDs, foreign currencies, commodities, futures and derivatives.

**5.5. "Affiliate Area"** shall mean the affiliate interface area (or backend) where Affiliates can login in order to view their personal data, business profile, statistics, register sub-affiliates, complete/update their personal and payment profile, create additional Tracker IDs and access the Company's promotional, advertising and/or marketing materials.

**5.6. "Affiliate Account"** refers to the account in which you will receive payments from us. All payments shall be transferred to affiliate accounts, unless otherwise specified.

**5.7. "Affiliate Commission or Fees"** is the remuneration due/received for the provided affiliate services and which is calculated in accordance with our system data and in compliance with the contractual provisions.

**5.8. Affiliate Tracking ID:** a unique hyperlink allocated to each Affiliate that assists in identifying the Affiliate's activities and calculates the Affiliate's monthly fees.

**5.9. "Client"** shall mean any natural or legal person who is or has been introduced by the Affiliate to the Company and whom the Company has accepted as a Client subject to the terms and conditions of the Client Agreement and is connected with the Affiliate Tracking ID (or, if applicable, is connected with the Tracker of your sub-affiliate), and who retains a live trading account with brand BDSwiss and/or Swiss Markets.

**5.10. "Client Account"** refers to a one-time assigned account which was created for clients who have successfully registered themselves for the service with a Tracking URL.

**5.11. CPA:** Cost per Acquisition. A commission plan defined as an activation of a live account by a new user. Commission is earned per qualified New Active User recorded in the Company's CRM.

**5.12. CPL:** Cost per Lead. A commission plan defined by the first telephone contact with the Lead as recorded by the CRM. Commission is earned per qualified lead recorded in the Company's CRM.

**5.13. CRM:** customer relationship management (software). The system used by the Company's customer service and sales representatives to manage customer interactions.

**5.14. Lead:** is a client of the Company who has not completed all steps of registration.

**5.15. "Fraudulent transaction(s)"** refers to payments or payment transactions which are generated via the service and are carried out with illegal intent, or any other action undertaken with malicious intent, in order to harm us, regardless of whether or not actual damage has arisen, as well as payments made via stolen credit cards; obfuscation, manipulation of the service system, the bonuses, or other promotional misuse and the creation of fake accounts in order to generate affiliate

commissions and any unauthorized use of third party accounts, copyrights, trademarks and intellectual property rights of third parties.

**5.16. "Intellectual Property (rights)"** means but is not limited to: existing and future patents, trademarks, logos, banners, creatives, design rights, brand names, commercial presentations, trade or business names (including domain names), registered designs, copyright (including rights applicable to computer software), rights to databases, know-how, client lists, literature, business strategies, e-books, tables, charts, trade and other business secrets of the Company.

**5.17. "Marketing material"** refers to any kind of promotional and/or marketing material used to promote the Company's products and services, including but not limited to: logos, banners, promo links, text links, landing pages, educational material, webinars, emails and any other material(s) (including our brand names or trade names as defined in paragraph 7.10. below), which were made available by the Company to an Affiliate or were provided by the Company to an Affiliate through the Affiliates Area or through the Affiliates Section on the Company's website or were made accessible to an Affiliate by the Company in other ways for the purposes of the present Agreement.

**5.18. "Brand(s)"** refers to the words "bdswiss" and "swiss markets" and/or every logo, brand name, domain name or trade name which contains these words, or is deceptively similar to them, or is included in our brand name or any other name or any other brand name of ours, which we or one of our subsidiaries bear from time to time.

**5.19. "Remuneration Plan"** refers to the remuneration plan according to the Company's remuneration policy or any other remuneration plan which was agreed upon between you and the Company or determined by us in writing as outlined in **Appendix 1** of this Agreement.

**5.20. "Prohibited territory"** refers to the list of countries which the Affiliate is not allowed to target as specified in **Appendix 2** of this Agreement.

**5.21. "Prospective Client(s)"** shall mean any natural or legal person who is or has been introduced or referred by the Affiliate to the Company.

**5.22. "Service(s)"** means the investment and ancillary services to be provided by the Company to the Client(s) via the Company's official website and are governed by the Terms & Conditions of the Client Agreement.

**5.23. "Page" or "webpage"** refers to the Company's official website [bdswiss.com](http://bdswiss.com) and any other online page and/or website and/or platform which belongs to us, is occasionally operated or controlled by us or our assignee, or by subsidiaries or affiliates, as well as any corresponding page via which a Client opens a Client account and/or obtains access to our service.

**5.24. "Spam"** refers to any e-mail or other electronic form(s) of communication, which you send, and which promotes, markets or refers to us, our page or our service in any other way from time to time, or which contains any marketing materials, our brands or trackers and breaches the provisions of this Agreement.

**5.25. "Sub-affiliate"** refers to a person or legal entity that the Affiliate introduces to the Company's affiliate network in compliance with the provisions of this Agreement to perform the same type of services as the Affiliate and to be bound by the terms and conditions of this Agreement (and who has succeeded in becoming an Affiliate).

**5.26. "Sub-affiliate commission(s)"** means any commission and/or fees paid to the Affiliate by virtue of introducing new affiliates to the Company's affiliate network and as stated in the Company's remuneration policy and agreed upon in **Appendix 1** of this Agreement.

**5.27. "Tracking URL"** refers to a special hyperlink or another link tool which refers to our page as well as to every service via which you refer to potential Clients for introducing and promoting the services of the Company. If the respective Client opens a client account, our system automatically stores the Tracking URL and records it as an Affiliate.

## **6. Application and Registration Data**

**6.1.** The Affiliate must complete and submit the online application/questionnaire available on the affiliates section at the Company's official website [bdswiss.com](http://bdswiss.com) and accept online the present Agreement.

**6.2.** In addition, as part of the affiliation on-boarding procedure, the Affiliate is required to provide us with the following identification documents:

- a)** Proof of Identity: that is a government issued passport and/or national identity card, AND
- b)** Proof of Residence: that is a scanned copy of a utility bill (such as water, gas, electricity, landline telephone or landline internet bill) or any other government issued document, in an A4 format,

reflecting the Affiliate's full name, address and date of issue. Please note that this document cannot be older than three (3) months.

- c) a bank statement or any other government issued document, in an A4 format, reflecting the Affiliate's full name, address and date of issue. Please note that this document cannot be older than three (3) months.

**8.3** The Affiliate agrees and understands that the Company is not to be required (and may be unable under Applicable Regulations) to accept a person and/or a legal entity as our Affiliate until all the information and documentation we require have been received by us, properly and fully completed by such person and all internal Company checks (including and without limitation anti-money laundering checks or identification tests as the case may be) have been duly satisfied. The Affiliate further acknowledges that the Company reserves the right to impose additional due diligence requirements to accept such a person and/or a legal entity as an Affiliate.

**8.4** The Affiliate hereto represents that (s)he has the full right, power and authority to enter into and be bound by the terms and conditions of this Agreement and to perform his/her obligations under this Agreement, without the approval or consent of any other party and/or confirms that (s)he is qualified under any applicable regulatory requirements to offer the services mentioned in this Agreement.

**8.5** The Affiliate must provide true, accurate and complete information to the Company, during the registration process and as these may be requested from time to time, about the Affiliate and his/her activities and/or blog and/or website and/or social media profile and/or any other information directly or indirectly related to the terms and conditions of this Agreement. In case the Affiliate provides false and/or inaccurate information and/or refuses to provide the requested information/documentation, the Company reserves the right to deny and/or reject the Affiliate application providing the Affiliate with a written notice to his/her registered email address.

**8.6** Should there be any changes in any of the provided information (both personal and commercial) the Affiliate is obliged to inform us immediately in writing via email at [affiliates@bdswiss.com](mailto:affiliates@bdswiss.com) and without being asked to do so.

**8.7** Once the Affiliate is successfully registered and approved by the Company, (s)he will be granted Access to the Affiliates' Portal and/or the Affiliates Area. For this site the Affiliate will be able to access information regarding his/her performance, commissions, fees and use the



Company's promotional/marketing material to promote/market the Company's products and services to prospective Client(s).

## **9. Affiliate's Representations and Warranties**

The Affiliate agrees to each and every of the representations and warranties below:

**9.1** You, in your capacity as an intermediary undertake that any and all information that you will provide to the Company concerning any prospective Clients during the introduction shall be accurate and reliable and shall not contain any false data. You shall provide the Company with any information required immediately upon demand about the referred clients so that the Company may assess credentials and comply with any and all anti-money laundering or other regulatory requirements.

**9.2** You are solely responsible and liable for the content and the form of your intermediary duties including any promotional/marketing activities. All intermediary services must be appropriate, professional and lawful with respect to the applicable legal standards (including any laws referring to the content or nature of the particular services) and must comply with the provisions of this Agreement in every respect.

**9.3** The Affiliate acknowledges that (s)he is aware of and undertakes to comply with all applicable laws as well as policies provided by us or published by us on our website with regards to the prevention of money laundering and terrorist financing and agrees to operate in accordance with the policies and procedures contained therein.

**9.4** You herewith confirm that you are aware and fully understand all laws applicable in your country of residency and/or country of business operations and/or in the contracted territory for the execution and fulfilment of this Agreement, and are in possession of any necessary license(s) or government permit, and have 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 you during the term of this Agreement and will remain in strict compliance with all of the foregoing and are no indications suggesting that these might be revoked.

**9.5** If the Affiliate is a company or other legal entity, the Affiliate is duly organized, validly existing and in good standing under the laws of his jurisdictions.

**9.6** Any breach by the Affiliate of any of the representations and warranties set forth or anywhere else in this Agreement renders the

entire Agreement or any part of it voidable, in the Company's absolute discretion. The Company further reserves the right, acting reasonably, to suspend and/or refuse access to and use of the Company's services and/or affiliates portal and/or affiliates account.

## **10. Affiliate's Rights and Obligations**

**10.1** To fully comply with the terms and conditions of this Agreement, as amended from time to time;

- a)** To fully comply with all the laws and regulations applicable to the Affiliate and/or applicable in his/her country of residency and/or country of business operations and/or in the contracted territory for the execution and fulfilment of this Agreement;
- b)** To obtain and/or always maintain in force all necessary registrations, authorizations, consents, license(s) or government permit(s) to be able to fulfil his/her obligations under this Agreement; and whenever requested, to supply details and evidence of the Affiliate's status and business and of the licensing and/or authorization requirements applicable to the Affiliate's activities;
- c)** To target and refer Client(s) only from the list of countries provided by the Company in **Appendix 2 of this Agreement;**
- d)** To perform the services described in this Agreement; specifically, the Affiliate shall restrict his/her services to the introduction and/or referral of Clients to the Company; the Affiliate shall bear all establishment and operational costs and expenses for the fulfilment of this Agreement, unless otherwise determined by the Company;
- e)** To introduce and promote the Company's products and services to prospective Clients as specified in this Agreement and in the Client Agreement. For the introduction of Client(s), the Affiliate will endeavour and will carry out all necessary actions so as for the Company to enter into an Agreement with the referred Client(s). Such actions will be carried out either physically or electronically;
- f)** To provide the prospective Client(s) with true, accurate and complete information regarding the Company, its activities, products and services;
- g)** To clearly inform the prospective Client(s) what is the business relationship between (a) the Affiliate and the Client and (b) between the Client and the Company;
- h)** To clearly inform his/her referred Clients of any fees directly or indirectly related to the introduction of the individual Client or received with regards to the services provided for under this Agreement;

- i) To clearly inform the prospective Client(s) that if the Client has a complaint against the Affiliate, then the Client must inform the Company in writing in accordance with the Company's Complaints Handling Policy;
- j) To distribute any kind of informational material (i.e. presentations/ educational seminars) in accordance with the Company's guidelines and prior written consent;
- k) To support entering into an agreement(s) between the Company and the potential Client(s) including assistance in completion of the account opening online procedure for opening an account with the Company;
- l) To act in good faith at all times, throughout the duration of this Agreement, and not make any false and/or misleading representation or statements with respect to the Company and/or the Affiliate Program and/or the Company's products and services and/or not engage in any other practices which may affect adversely the image, credibility or the reputation of the Company and its services;
- m) To comply with the Company's branding and intellectual property guidelines;
- n) To provide sufficient proof of ownership of their blog and/or website and/or social media profile and/or of any other means used for his/her promotional/marketing activities as these may be requested from time to time;
- o) To use only, the approved by the Company advertising, informational, promotional, marketing materials and the Company's Intellectual Property and Brands. The Affiliate is not allowed to amend, modify or alter any of the Company's aforementioned materials or Intellectual Property or Brands or Trademarks without our prior written consent.
- p) Without prejudice to Sections 19-21, you agree that the Trackers are only for your own use and must not be transferred or assigned to a third party. Without our prior written permission, this applies to both Tracker IDs and other affiliates commission.
- q) If we have reasonable suspicion that you have committed one or any of the abovementioned acts or you have breached of any of the above-mentioned prohibitions specified herein (paragraphs 10.1., 10.2. and 10.3.), then the Company reserves the right to retain all affiliate commissions and/or to terminate the affiliation Agreement with immediate effect (without prejudice to other potential legal recourse).

**10.2** Moreover, should your intermediary services not be in line with our policies, we reserve the right to stop any advertising campaigns, retain

outstanding payments and/or block your account with us with immediate effect, at our sole discretion.

**10.3** The Affiliate agrees and understands that the Company may, at its sole discretion, accept or decline any Client(s) introduced/referred by the Affiliate. Consequently in order to be eligible for the consideration provided for in this Agreement, the intermediary services must be successful.

## **11. Sub-affiliates**

**11.1** You can pass other persons on to us, so that they may apply for participation in the affiliate network. If such a person successfully joins our network, we will pay you for the activities of a sub-affiliate, depending on your payment plan, provided you register them via the "Sub-Affiliate Registration Function" within the affiliate area on the website. You will only receive a credit note for those sub-affiliates who fulfil all the membership requirements of this agreement. Any person, who was once registered as an affiliate, cannot be registered again as a sub-affiliate. You may not:

- 1.** register either yourself or a person controlled by you as your sub-affiliate;
- 2.** use a fictitious name or an alias for the registration of a sub-affiliate;
- 3.** offer any form of monetary incentive or any other payments to potential sub-affiliates, prior to us issuing written permission to you for this; or
- 4.** attempt to insert any additions or alterations to the provisions concerning potential sub-affiliates.

## **12. The Company's rights and obligations**

**12.1** The Company reserves the right to refuse to provide our services to any potential Client, and to close any Client account at any time at our discretion. All data relating to the Client shall remain exclusively our property. Other than in cases explicitly foreseen by us in writing, you will not acquire any rights to data of any kind, which are generated in the context of cooperation under this agreement or in any other way.

**12.2** The Company holds the right to monitor the Affiliate's business activities and/or blog(s) and/or website(s) and/or social media profile and/or any other site associated with the Affiliate or method used to promote the Company's services and products to ensure that it is in accordance with the provisions of this Agreement.

**12.3** Any promotional/marketing material developed or created by the Company and placed or used by the Affiliate, is owned by the Company and, except for the purposes of this Agreement, cannot be used by the Affiliate without the prior written consent of the Company. The Company reserves the right, at any time, to review the Affiliate's placement of promotional/marketing material and approve its use of the Affiliate's Links. Furthermore, the Affiliate accepts that the Company may require that the Affiliate changes the placement or use of such material in order to comply with the applicable regulatory framework and/or BDS requirements.

### **13. Reports and payments**

**13.1** Reports: The Company registers and reports client activities in order to calculate the affiliate commissions based on the Company's remuneration policy. The form, content and frequency of the reports may be changed by us from time to time, at the Company's sole discretion. As a rule, you will receive a monthly report with your payments, indicating the number of new Client(s) who have registered this month with the Tracker and the total amount payable to you (after deductions and set-offs in accordance with this Agreement). In addition, daily reports can be provided to the Affiliate online so that you can gain an overview of new clients via Tracker. We herewith exclude any liability for the accuracy or completeness of these reports.

**13.2** Affiliate commissions: In accordance with paragraph 11.4 below, the affiliate commissions will be paid out to you every month in accordance with the Company's remuneration policy. After you have concluded the registration process and/or we have activated additional Trackers. We have the right not to accept the payment plan selected by you. Moreover, we may, at any time and after notification, transform any payment plan and any linked Tracker made available hereunder from a Revenue Share Plan into a CPA Plan or vice versa, or to any other plan which we may operate from time to time.

**13.3** Sub-affiliate commissions: In accordance with Section 11, in line with your payment plan and Section 13.4 below, you will receive a commission for all due and payable affiliate commissions of your sub-affiliate(s), who are entitled thereto for identifying, targeting and canvassing customers for us on our pages.

**13.4** Minimum payment and time of payment: Affiliate commissions which are due shall be paid into your affiliate account by the middle of each month (fifteenth day of the month). For administrative reasons and in order to ensure the security of your account, we reserve the right to restrict the frequency as well as the amounts of payment into your

affiliate account within reasonable limits. At our sole discretion, we can impose a policy according to which a negative payment amount in a month is carried forward to the following month and is deducted therefrom. The minimum payment amount is 100 EUR (one hundred EURO). A lesser amount will be retained by us until the minimum payment amount is reached.

## **14. Termination**

**14.1** Termination by the Affiliate: You have the right to cancel/terminate this Agreement, for any reason, by giving to the Company at least five (5) business days written notice to the following email address: affiliates@bdswiss.com with the subject "Affiliate Cancellation Notification", specifying the termination date as such.

With the statement of cancellation, the participation in the affiliate network ends automatically. The cancellation of specific paragraphs or individual pages is prohibited. In the event of cancellation, you are obliged to withdraw all credit balances from your affiliate account within 30 days. Should the money not be withdrawn in time, it will fall back to the Company.

**14.2** Termination by the Company: We have the right to cancel/terminate this Agreement, the entire contract or any individual provisions or cancel any individual Trackers for any reason, by giving to the Affiliate at least five (5) business days written notice to the email address that the Affiliate provided us with or via fax to the fax number that the Affiliate provided to us.

Should we cancel/terminate the entire contract, we are entitled to automatically deactivate all trackers. By way of precaution, it should be noted here that, with the termination of this Agreement, you will no longer receive any affiliate commissions. If we end a specific tracker, the remaining trackers will not be affected.

**14.3** By way of derogation from paragraph 14.2. the Affiliate accepts that the Company reserves the right to terminate or suspend this Agreement immediately, without notice, in any of the following cases:

- a)** The Affiliate violates or breaches any provision of the Agreement and in the Company's opinion the Agreement cannot be implemented;
- b)** The Affiliate passed away;

- c) There has been malpractice, deceit, failure or other significant event, including liquidation, bankruptcy, insolvency or winding-up proceedings, on the part of the Affiliate.
- d) The Affiliate involves the Company directly or indirectly in any type of fraud;
- e) Termination is required by any competent regulatory authority or body;
- f) The Affiliate violated a law or a regulation to the jurisdiction to which he/she is subject to and/or the laws or the regulations of the Republic of Seychelles;
- g) There is non-performance or low performance on the part of the Affiliate; specifically if the Affiliate's account is inactive, his/her contract and participation in the affiliate network ends automatically. Hereafter, inactive means that:
  1. the Affiliate did not generated enough affiliate commission for initiating a payment into his/her affiliate account, or that no monies were paid out to the Affiliate within 180 (one hundred and eighty) days or more (by a withdrawal or a transfer to a client account); or
  2. the Affiliate did not introduced any new clients within 100 days through his/her intermediary services; or
  3. the Affiliate did not respond to any of the verification messages sent to him/her within a reasonable period of time. In the event of an automatic ending of the contract, all the cash resources remaining in the affiliate account pass to us.

**14.4** Should the Company elect to suspend this Agreement, instead of terminating it, during such period of suspension, it will have the right to hold back the payment of affiliate commissions. As soon as the suspension is lifted, all the retained affiliate commissions will be paid to you.

## **15. Survival clause**

**15.1** Sections 7, 10, 13, 14, 16, 18, 19 and 20, as well as provisions which are necessary for the interpretation or implementation of this Agreement shall continue to apply even after the termination or expiry of this agreement.

## **16. Liability**

**16.1 Force Majeure:** If the performance of any part of this Agreement by either Party is prevented, hindered, delayed or otherwise made impracticable due to certain unforeseeable events, including but not limited to acts of God, war, governmental decree, natural disasters, power failure, failure in communication lines or other network failure,

judgment or legal order, strike, or other circumstances, beyond that Party's reasonable control, such Party shall be excused from the performance of the Services to the extent that it is prevented, hindered or delayed by such cause. On completion of twenty one (21) consecutive days of non-performance of the services, due to such unforeseeable events, either Party may terminate this Agreement, by giving one (1) week's written notice.

**16.2 Indemnification:** the Affiliate hereby agrees to defend, indemnify and hold harmless the Company and any of its subsidiaries and affiliates, and its directors, senior executives, supervisory board members, officers, employees, agents, shareholders, partners and representatives from and against any claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs and expenses (including reasonable attorney fees or justifiable legal fees) which (directly or indirectly) stem from or arise out of: (a) your breach of any of the terms and conditions of this Agreement; (b) your gross negligence or wilful misconduct; (c) any claim for infringement against the Affiliate of the Company use of the any trademarks, trade name, service mark, copyright, license, intellectual property, or other proprietary right of any third party; (d) any misrepresentation of a representation or warranty or breach of a covenant and agreement made by the Affiliate herein or (e) any claim related to the Affiliate's site, including, without limitation, content therein not attributable to the Company.

**16.3 Off-sets:** we are entitled to set off any claims we have against you under the law or under this Agreement against all your claims for payment.

## **17. Communication**

**17.1.** Unless specified otherwise in this Agreement, any communication or written notice by the Company under this Agreement shall be given in writing to the email address provided by you on the affiliate registration form (or, if this changes, to the new address provided by you).

## **18. Confidentiality**

**18.1.** As an Affiliate, you may receive confidential information regarding the Company's marketing plans, marketing concepts, our composition and payment. This information is confidential and represents our protected trade secrets. You may not divulge this information to third parties or use it for purposes other than those provided for in this agreement without our prior permission; unless this is prescribed by law (provided such disclosure is demanded to this extent).



## **19. Intellectual Property, Branding and Proprietary Rights**

**19.1.** For the duration of this Agreement, the Company grants to the Affiliate a limited, non-transferable, non-exclusive, revocable license to access the Company's affiliates portal and/or site and/or Affiliates Area and use, within the territory of his/her activities, the Company marketing and promotional material, including but not limited to: banners, logos, creatives, content, creatives, trademarks, brands, copyright, literature in accordance with the terms of this Agreement and for the sole purpose of introducing Client(s) to the Company and/or promoting/advertising the Company's products and services.

**19.2.** All Intellectual Property licensed to You - the Affiliate - belongs solely and exclusively to the Company and its successors and cannot be used, transferred or assigned to a third party without the prior written permission by the senior management of the Company. Nothing in this Agreement shall confer any right of ownership in our Intellectual Property. the Company reserves all of their rights in the materials provided and all of its other proprietary rights.

**19.3.** You acknowledge and agree that you will use our Intellectual Property in a lawful manner and in strict compliance with the terms and conditions of this Agreement and all the Company's guidelines as provided for by the Company, and only during the term of our cooperation.

**19.4.** You agree to display any of our Intellectual Property and marketing material on your website(s) solely for the purpose of marketing and promoting the Company's products and services.

## **20. Assignment**

**20.1.** The Affiliate shall not, under any circumstances, assign, transfer, sublicense or outsource any of his/her rights and/or obligations under this Agreement to another natural or legal person, in whole or in part, without having obtained the Company's explicit prior consent. Any fictitious assignment, transfer, sublicense or outsource in breach of this clause shall not transfer any rights to the alleged assignee and shall be void.

## **21. Governing Law and Jurisdiction**

**21.1.** The Affiliate accepts that this Agreement and all transactional relations between the Affiliate and the Company shall be deemed to have been concluded in Seychelles and is subject to the Laws of the Republic of Seychelles and must be interpreted in accordance therewith. You irrevocably agree that the competent courts for the settlement of any disputes which may arise from this Agreement between the parties shall

be the district court(s) of the Republic of Seychelles. You hereby relinquish the right to object to the lack of territorial or subject-matter jurisdiction of a court.

**21.2.** This clause does not deprive us of the right to lodge a complaint against you in any other court of jurisdiction, nor does it deprive us of the option to lodge a complaint in other jurisdictions in the event of a complaint covered by one or more jurisdictions, regardless of whether this happens at the same time, as long as that jurisdiction's law permits it.

## **22. Severability**

**22.1.** Each of the provisions of this Agreement is severable. Accordingly, if any provision(s) of this Agreement is or becomes, at any time, invalid, illegal, void or unenforceable in any respect under the law of any jurisdiction, that shall not affect or impair the legality, validity or enforceability of the remaining provisions of this Agreement, which shall remain in full force and effect.

**22.2.** The parties agree that any invalid, illegal or unenforceable provision shall be deemed to be automatically replaced by the valid, legal and enforceable provision satisfactory to any relevant competent authority that comes as close as possible to the commercial and legal effect sought by the replaced provision.

## **23. Entire Agreement**

**23.1.** This Agreement constitutes the entire Agreement and the related consensus between the parties regarding the object of this Agreement and supersedes all previous or subsequent verbal or written agreements or understandings between or among the parties hereto with respect to the subject-matter of this Agreement, except for the modifications to the agreement offered by us under Section 5 - Amendments Therof.

**23.2.** Each of the parties acknowledges and agrees that the conclusion of this agreement does not imply any statement, declaration, guaranteed assurance, agreement, declaration of obligation, promise or assurance (whether issued intentionally or unintentionally) by any party (whether a party to this agreement or not) which is not explicitly stipulated in this agreement. Each of the parties irrevocably and unconditionally relinquishes all claims, rights and damages which, except for this clause, it could assert in connection with the aforementioned. Nothing in this section should limit or exclude a liability for fraud.

**23.3.** The heading and titles contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement or its interpretation.

**BDS Ltd**

Last updated on March **2018**

## **Appendix 1 \_ Payment Plan / Remuneration Scheme**

INSERT HERE THE PAYMENT PLAN AGREED BETWEEN THE COMPANY & THE AFFILIATE

As specified in the Company remuneration policy

BDS Ltd at its sole and absolute discretion, may change the Compensation method at any time. The Affiliate compensation in relation to new Clients will be payable only following the Company's verification and checks concerning all new Clients in accordance with the requirements of any applicable law and the Company's internal verification process.

## **Appendix 2 \_ LIST OF ACCEPTABLE AND NON-ACCEPTABLE COUNTRIES**

(a) Acceptable Countries to target clients

All countries except the ones listed below under (b) non-acceptable countries

(b) Non-acceptable countries to refer clients from

- North Korea
- Democratic Republic of Kongo
- Eritrea
- Libyan Arab Jamahiriya
- Somalia
- Sudan