

Affiliate Agreement

Effective Date: 1st August 2017

INTRODUCTION

1. GMO-Z.com Trade UK Limited (“Z.com Trade”) is authorised and regulated by the Financial Conduct Authority (“the FCA”) with registration number (622897). Our company number is 8261027 and our registered address is Becket House, 36 Old Jewry, London, EC2R 8DD.
2. This Agreement is made by and between GMO-Z.com Trade UK Limited (“Z.com Trade”), and You (“Affiliate”), hereinafter referred to separately as the “Party” and jointly the “Parties”.
3. The Affiliate hereby acknowledges and agrees that by completing and submitting the Affiliate Application Form to Z.com Trade and clicking on the “I accept” box or similar buttons or links as may be designated by Z.com Trade on the Z.com Trade Affiliate Website, they are entering into a legally binding contract and fully agrees to abide by and to be bound by all the following terms and conditions set out in this agreement.
4. The Affiliate wishes to introduce potential clients to Z.com Trade in accordance with the terms and conditions set out in this agreement.

THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this agreement the following words, expressions and abbreviations shall have the following meanings, unless the context otherwise requires:

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| “Account” | means the uniquely assigned Live Account that is created for each client when they complete an account application on any of the Z.com Trade websites and is subsequently approved by Z.com Trade. |
| “Affiliate” | means a person or entity that received confirmation from Z.com Trade, at Z.com Trade's sole discretion, that it has successfully completed the Affiliate Application Form, that it is included in the Program and that it has received an Affiliate System Login ID which is linked to the Z.com Trade Affiliate Website in accordance with the terms of this Agreement. |
| “Affiliate Application Form” | means the registration form located within the Affiliate Website, to be completed by an applicant for the purposes of applying to participate in the Program. |

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| “Affiliate Commission” | means money payable to the Affiliate by Z.com Trade from the “CPA” plan, “Revenue Share Plan”, or “Sub Affiliate Plan” in accordance with the terms outlined on the Affiliate Website. |
| “Affiliated Party” | means any individual, corporation, partnership, joint venture, trust, and any other body corporate or unincorporated organisation, directly or indirectly controlling, controlled by or under common control with Affiliate. |
| “Affiliate Program” | means a program whereby Z.com Trade compensates an Affiliate for successfully introducing a client to Z.com Trade. Calculation of the compensation is based on the Commission Plan selected by the Affiliate within the Affiliate System, which can be the CPA Plan or Revenue Share Plan for clients using Z.com Trade’s online trading services, or Sub-Affiliate Plan for campaigns whereby the Affiliate introduces other Affiliates to Z.com Trade. |
| “Affiliate System” | means the system provided by Z.com Trade to affiliates, for the purposes of monitoring their introductory activities, commission payments, and provision of Marketing Materials. |
| “Affiliate Website” | means Z.com Trade’s Affiliate Website currently located at https://affiliates.uk.trade.z.com , or any page, section, subsection or subdirectory thereof, and any other additional, substitute or successor site that may be designated by Z.com Trade, including any related to its international activities. |
| “BA 2010” | means the Bribery Act 2010 |
| “Business Day” | means a day (excluding Saturdays and Sundays) on which banks generally are open in the City of London for the transaction of normal banking business. |
| “Click ID” | means the unique identification code, which is related to the Tracking URL or sign-up Introduction Codes. |
| “Client” | means a client who has Z.com Trade Live Account. |
| “Commencement Date” | means the Business Day on which this Agreement has been agreed to by the Affiliate on the Z.com Trade Affiliate Website. |
| “CPA Plan” | means the Affiliate compensation plan whereby the Affiliate shall be paid its Affiliate Commission after the Introduced Client meets the Qualified Trader requirements set by Z.com Trade and outlined on the Affiliate Website, in accordance with the country of residence of the Client and the number of monthly Qualified Traders introduced by the Affiliate. |
| “DPA 1998” | means the Data Protection Act 1998 or its successors. |

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| “FCA” | means the UK Financial Conduct Authority or its successors. |
| “Fraud Traffic” | means any deposits, withdrawals, transactions, trading activity or traffic generated at Z.com Trade through illegal means or in bad faith to defraud Z.com Trade, regardless of whether or not it actually causes harm to Z.com Trade. Fraud Traffic includes, but is not limited to, spam, false advertising, deposits generated by stolen credit cards, collusion, manipulation of the service, system, bonuses or promotions, offers to share the Affiliate Commission directly or indirectly with Introduced Clients, and any other unauthorized use of any third party accounts, copyrights or trademarks. |
| “FSMA” | means the UK Financial Services and Markets Act 2000 and the Financial Services Act 2010. |
| “Group” | means, in respect of a Party, that Party, its subsidiary undertakings and parent undertakings from time to time of such holding companies, all of them and each of them as the context admits. |
| “Introduced Client” | means a client introduced to Z.com Trade by the Affiliate, accepted by Z.com Trade and with whom Z.com Trade does not have a current or prior existing trading relationship. Any client with whom Z.com Trade has a current or prior existing trading relationship shall not be treated as Introduced Client. |
| “IPR” | means all rights in or in relation to any and all patents, rights to inventions, copyright and related rights, moral rights, likeness, trademarks and service marks, trade names and domain names, rights to goodwill or to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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 and the right to receive any remuneration in respect of, or to sue for and recover damages for past infringements of, such rights. |
| “Introduction Code” | means the unique identification code that Z.com Trade provides exclusively to the Affiliate via the Affiliate System, which enables Z.com Trade to identify the Affiliate that has referred an Introduced Client, and calculate the Affiliate Commission accordingly. |
| “Marketing Materials” | means all communications, including advertisements and promotional |

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| | materials, provided by Z.com Trade to the Affiliate for the purposes of introducing potential clients to Z.com Trade. |
| “Regulated Activities Order” | means The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001. |
| “Regulated Activity” | means any activity requiring permission from the FCA, as set out in the Regulated Activities Order, or other applicable regulatory authority. |
| “Revenue Share Plan” | means an Affiliate compensation plan where the Affiliate Commission payable to Affiliate is calculated as a fixed amount per standardised lot traded of the instrument(s) traded by the Qualified Trader derived by Z.com Trade, which varies depending on the monthly trading volume of the Qualified Trader in accordance with the levels set forth on the Affiliate Website. |
| “Qualified Trader” | <p>means an Introduced Client who was referred by an Affiliate and identified by a Click ID assigned to the Affiliate or identified by entering a sign up Introduction Code assigned to such Affiliate by the Affiliate System, on the conditions that:</p> <ul style="list-style-type: none"> (a) the Affiliate is confirmed by the Z.com Trade as included in the Affiliate Program and Z.com Trade Website has successfully registered for the Affiliate Program and agreed to the terms of this Agreement, (b) the Introduced Client has been approved by Z.com Trade and has satisfied the requirements set forth on the Affiliate Website relating to the Qualified Trader Criteria Deadline for the Revenue Share Plan and CPA Plan, and Qualified Trader Criteria in the case of the CPA Plan. (c) the Introduced Client does not already have a Live Account with Z.com Trade under a different name or through a different identity. <p>For the avoidance of doubt, neither an Affiliate nor any of its Affiliated Parties are eligible to become Qualified Traders under such Affiliate’s Click ID(s), and should an Affiliate or any of its Affiliated Parties register in this way the Affiliate will not be eligible to receive the applicable commission or any other compensation.</p> |
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| “Sub-Affiliate” | means any person or entity which an Affiliate refers to this Program as a Sub-Affiliate, and joins the Program by accepting the terms of this Agreement. |
| “Tracking URL” | means a unique hyperlink to the Z.com Trade Website which is generated |

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| | by the Affiliate System, and enables an Affiliate to refer potential clients to the Z.com Trade Website.Z.com Trade can identify the Affiliate that has referred specific clients for the purpose of calculating Affiliate Commission. |
| “Trading Platform” | means the technology provided by Z.com Trade for its clients, for the purposes of trading on the price movements of the range of financial instruments offered. |
| “Z.com Trade Products and Services” | means the proprietary products and services currently offered as outlined on the Z.com Trade Website. |
| “Z.com Trade Website” | means the Z.com Trade website currently located at https://trade.z.com/uk/en/ , /sc, or any page, section, subsection or subdirectory thereof, and any other additional, substitute or successor site that may be designated by Z.com Trade, including any related to its international activities. |

1.2 In this agreement, unless otherwise specified, reference to:

- (a) “includes” and “including” shall mean includes and including without limitation;
- (b) a person includes any person, individual, company, firm, corporation, government, state or agency of a state or any undertaking or organisation (whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);
- (c) a statute or statutory instrument or any of their provisions is to be construed as a reference to that statute or statutory instrument or such provision as the same may have been, or may from time to time hereafter be, amended or re-enacted or as a reference to any successive or substitute statute or statutory instrument;
- (d) clauses or schedules are to clauses of and schedules to this agreement. The schedules form part of the operative provisions of this agreement and references to this agreement shall, unless the context otherwise requires, include references to the recitals and the schedules;
- (e) words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;

1.3 The headings in this agreement are for information only and are to be ignored in construing the same.

2 AFFILIATE OBLIGATIONS AND WARRANTIES

2.1 The Affiliate shall use its best endeavors to introduce clients to Z.com Trade, including through the use of such means and methods as detailed in the Affiliate Website.

2.2 The Affiliate warrants and undertakes that it:

(a) has and will maintain for the Term of this agreement:

(i) full capacity, authority and rights; and

(ii) all licenses, recognitions, registrations, permissions, authorisations, exemptions and memberships, necessary for the conduct of its business, required to enter into this agreement and as required for performance of its obligations under this agreement and any other actions contemplated hereunder;

(b) has and will continue to comply with all applicable laws, regulations, rules and other similar instruments as are in force from time to time and which are binding on either or both of the Parties.

(c) has and will continue to be fit and proper to undertake its obligations under this agreement; and

(d) will not be in breach of any duty or obligations with any third party when performing its obligations under this agreement.

2.3 The Affiliate agrees and acknowledges that:

(a) it has no authority to enter into any arrangement or agreement on behalf of, or in any way bind, Z.com Trade or make representations or warranties, or act in any way as to give a false impression, with regard to its relationship with Z.com Trade, Z.com Trade's Products and Services and/or Z.com Trade itself;

(b) any contract entered into with a Client as a result of Affiliate activities will be between only

Z.com Trade and such Client, and the Affiliate shall not have any interest in such contractual relationship;

- (c) any Regulated Activities contemplated under this agreement are to be performed by Z.com Trade and this agreement in no way allows or permits the Affiliate to undertake any Regulated Activities;
- (d) Notwithstanding any provision in this agreement, Z.com Trade shall be entitled to take any action required or requested by the FCA or any other relevant regulatory authority or as required to comply with any applicable regulatory system and/or laws. Such action shall not constitute a breach by Z.com Trade of this agreement; and
- (e) Z.com Trade, as part of its own regulatory obligations, will need to monitor the Affiliate's activities from time to time in relation to this agreement and the Affiliate agrees to co-operate with such monitoring as and when required by Z.com Trade.

2.4 In performing its obligations under this agreement, the Affiliate shall comply with any directive, notice or order from Z.com Trade with respect to the rules, regulations and principles of any relevant regulatory authority, including those of the FCA

2.5 The Affiliate will not:

- (a) directly or indirectly offer any potential client any incentive (including, without limitation, payment of money or other benefit) to open a Z.com Trade account; or
- (b) promote Z.com Trade Products and Services in any jurisdictions where such products and services are prohibited; or
- (c) seek to challenge the validity of IPR belonging to Z.com Trade or any other company within Z.com Trade's Group; or
- (d) create and/or distribute any Client Communications or perform any services relating to Z.com Trade, or any of the Z.com Trade Products and Services, without Z.com Trade's prior written consent; or

- (e) continue to create and/or distribute any of the materials or perform any of the services pursuant to clause 2.5; or above if Z.com Trade withdraws its consent or after termination of this agreement; or
- (f) include Marketing Materials or any other advertising materials for Z.com Trade in any material which is defamatory, violent, pornographic, unlawful, threatening, obscene or racially, ethnically, or otherwise discriminatory or in breach of any third party rights.
- (g) register a business that includes the wording “Z.com” or “GMO” in its name. Furthermore, the introducer acknowledges that he is not allowed to register and/or operate a domain name that includes the working “Z.com” or “GMO” in its name.

2.6 Z.com Trade will provide the Affiliate with the Marketing Materials via the Affiliate System. When using Marketing Materials, the Affiliate agrees that their usage of such materials are subject to the following:

- (a) The Affiliate acknowledges that the Marketing Materials can only be used for the purposes of marketing to potential Introduced Clients to Z.com Trade, as defined in this Agreement.
- (b) The Affiliate cannot change, alter or modify the appearance of the Marketing Materials provided to them by Z.com Trade.
- (c) The Affiliate is prohibited from marketing to potential clients by using any website that is used by Z.com Trade, any internet search engine used by Z.com Trade to promote its services, or any other manner which results in the Affiliate engaging in competitive advertising with Z.com Trade.
- (d) Regardless of whether the Marketing Materials are published, the Affiliate is prohibited from using a website domain which is deemed to resemble Z.com Trade’s website in the view of Z.com Trade or Group companies (for example, www.zcomtrade.com, www.z-com.com, www.gmoclickz.com), and must cease use immediately upon being requested to do so.
- (e) The Affiliate must not market to potential clients by using false or misleading statements, by illegal/fraudulent means, in bad faith or unethically, in a manner which damages the image of Z.com Trade or its Group companies, or in an unsolicited manner. Potential clients who are

marketed to must have consented in advance to receiving any direct promotional messages from the Affiliate, and the persons marketed to directly must be provided with an option to easily be removed from future promotional messages.

- (f) The Affiliate must not market in a fraudulent manner, including but not limited to by means of Spam emails/social media postings, forum posts, chat board posts, forced redirects, or manipulation of services and/or advertising systems.
- (g) Upon termination of this Agreement for any reason, the Affiliate will immediately cease use of, and remove the Marketing Materials provided by Z.com Trade from their approved website.
- (h) The Affiliate must immediately cease use of, and remove the Marketing Materials provided by Z.com Trade from their approved website, upon the request of Z.com Trade.
- (i) The Affiliate may not target citizens or residents of the countries outlined in the Prohibited Countries list in the Marketing Rules document on the Affiliate Website

The Affiliate acknowledges that failure to comply with any of the terms outlined within 2.6 constitutes a violation of this Agreement, in which circumstance Z.com Trade is entitled to cancel, modify or withhold commission payments at its sole discretion.

- 2.7 The Affiliate shall notify Z.com Trade if any claim or demand is made or action is brought against it, or if it has reasonable grounds to believe that one might be, whether or not such claim, demand or action is related to, or could affect, any obligations contemplated under this agreement.
- 2.8 The Affiliate shall promptly provide Z.com Trade with any data, documents or other information as requested by Z.com Trade in relation to any of Z.com Trade's legal or regulatory obligations, including those of the FCA, or as required by Z.com Trade to perform its obligations under this agreement, including any obligation Z.com Trade has towards any person who is a Client as a result of the Affiliate's efforts.
- 2.9 The Affiliate shall keep a complete and accurate record of its activities in relation to the agreement for at least three (3) years and shall promptly provide such a record to Z.com Trade upon request.
- 2.10 The Affiliate shall adhere to the Marketing Rules, which can be found on the Z.com Trade Website and Z.com Trade Affiliate Website for the duration of this Agreement. The Affiliate acknowledges

that failure to comply with the Marketing Rules constitutes a violation of this Agreement, in which circumstance Z.com Trade is entitled to cancel, modify or withhold commission payments at its sole discretion.

3 TRACKING AND PAYMENTS

- 3.1 Z.com Trade shall make payments to the Affiliate in accordance with the commission structure the Affiliate chooses to be compensated for their particular campaign, as communicated by the Affiliate through the Affiliate System.
- 3.2 Z.com Trade reserves the right to deduct local value added tax from any payments made under this Commission Schedule.
- 3.3 Unless VAT or relevant local taxes are applicable, all payments made by Z.com Trade under this Agreement will be made exclusive of VAT or local taxes.
- 3.4 Should the Affiliate be in breach of any term under the agreement, Z.com Trade may withhold any payments due under this agreement.
- 3.5 Z.com Trade may disclose to Clients that the Affiliate may receive payments (and the amount thereof), in accordance with any applicable laws, regulations and rules.
- 3.6 The Commission Payments set forth on the Affiliate Website shall be payable for as long as the Introduced Client maintains its trading account, except if (i) this Agreement is terminated in accordance with Section 5; or (ii) the Introduced Client has a negative cash balance; or (iii) Z.com Trade reasonably determines that such payment would violate any laws or rules to which Z.com Trade or Affiliate is subject; or (iv) Z.com Trade deems it necessary to withhold the Payment for reasons arising from, but not limited to, Introduced Clients' complaints, any governing body investigation or complaints, or any legal issue. Information regarding Payments is detailed on the Affiliate Website.
- 3.7 Affiliate Commission shall be calculated as follows:
 - (a) CPA Plan: The Affiliate Commission for each Qualified Trader referred by an Affiliate to the Z.com Site shall be specified on the Affiliate Website.
 - (b) Revenue Share Plan: The Affiliate Commission shall be a fixed amount per standardized lot traded by the Qualified Trader referred by and tracked to such Affiliate. The percentage shall be specified on the Affiliate Website.

- (c) Sub-Affiliate Commission: Z.com Trade shall pay each referring Affiliate its commissions in respect of its referred Sub-Affiliates' trading activity, as specified on the Affiliate Website.
- 3.8 For the avoidance of doubt, the details on the Affiliate Website shall prevail in the event of any inconsistencies or ambiguities between this Agreement and the Affiliate Website.
- 3.9 The details in section 3 are updated from time to time at the Z.com Trade's sole and absolute discretion, and the latest version of the Affiliate Website shall always prevail.
- 3.10 Z.com Trade shall track Clients' trading activity for the purpose of calculating the Affiliate Commission and such information shall be available to the Affiliate in the Affiliate System. The Affiliate Commission shall be paid upon request from the Affiliate.
- 3.11 Affiliate Commission will be paid within ten (10) business days after its request was submitted on the Affiliate Website by the Affiliate. The Affiliate is permitted to submit a payment request on the Affiliate Website only once for each calendar month, in respect of the Affiliate Commission accrued up to and including the previous calendar month. When Z.com Trade makes a payment to the Affiliate, the Affiliate shall be responsible for any costs or fees incurred by the transaction, and will receive his commission less the total costs or fees involved. Affiliate Commission payments which are not enough to not cover the relevant transaction costs or fees shall be declined by Z.com Trade. In the event the Affiliate is deemed "inactive", whereby no traffic has been referred for an entire calendar year, Z.com Trade will automatically pay any accrued commission to the Affiliate with the payment details registered by the Affiliate in the Affiliate System. If the Affiliate has not registered any payment details or the Affiliate Commission is not enough to cover the relevant transaction costs or fees, the Affiliate Commission shall be deleted by Z.com Trade within five business days of the start of the following calendar year.
- 3.12 Commission in respect of the CPA Plan is payable for Qualified Traders only. In addition to any other terms and conditions set forth anywhere in this Agreement or under any applicable laws, the Affiliate shall not be entitled to receive any Affiliate Commission for any Introduced Clients unless and until such Introduced Clients have been approved and verified by Z.com Trade as a Qualified Trader. For the avoidance of doubt, Z.com Trade reserves the right, in its sole and absolute discretion, to change, modify, add or remove, at any time, any criteria applying to any of the Compensation Plan, including without limitation, setting any baseline, threshold, minimum deposits/earnings and/or other requirement(s) for qualifying into the Compensation Plan and/or for

receiving any Affiliate Commission set out in this Agreement.

- 3.13 Affiliate Commission in relation to new Qualified Traders will be made only following Z.com Trade's verification and Anti-Money Laundering checks in respect of the Qualified Trader, which are applicable to all new Clients in accordance to the requirements of any applicable law and Z.com Trade's internal verification processes.
- 3.14 Notwithstanding any other provision in this Agreement, the Affiliate shall no longer be entitled to receive the Affiliate Commission for any Introduced Clients who have not met the Qualified Trader Criteria with six months of the account application in the case of the CPA Plan, or for any Introduced Clients who have not successfully opened a Live Account six months after the account application in the case of the Revenue Share Plan.
- 3.15 The Affiliate acknowledges that when requesting for a payment of the Affiliate Commission to be made, the Affiliate must register a valid copy of their proof of identity document to the Affiliate System, in order for Z.com Trade to verify that the Affiliate's registered details and proof of identity document match. The Affiliate must upload a valid government-issued proof of identity document such as a passport, national identity card, or driving license, and acknowledges that Z.com Trade will not approve any commission payments where a proof of identity document has not been uploaded, if an invalid or otherwise unacceptable proof of identity document has been uploaded, or if the proof of identity document details differ from the Affiliate's registered details in the Affiliate System.
- 3.16 Z.com Trade may, at its sole and exclusive discretion, withhold, delay or deny payment of the Affiliate Commission in any of the following events: (i) if Z.com Trade has reason to believe that the Affiliate's activity is not in compliance with any applicable law; (ii) if Z.com Trade has reason to believe that the Affiliate's activity is in breach of this Agreement; (iii) if the Affiliate has failed to complete any form as may be required by the Z.com Trade or has completed misleading or incorrect information in a form provided by Affiliate to Z.com Trade; (iv) if the Affiliate has failed to provide any document as may be demanded by Z.com Trade; (v) if Z.com Trade has been notified by a third party of the alleged infringement of property or rights (e.g. intellectual property rights) by the Affiliate or by the Affiliate's activity. The Affiliate hereby irrevocably waives any claim or demand against the Z.com Trade, its directors, officers, shareholders, employees or against the Z.com Trade Website(s) in respect of such action taken by Z.com Trade.
- 3.17 Notwithstanding the forgoing, in the event that any activity in Affiliate's account, or in any account

which appears to be controlled or managed by the Affiliate, is deemed suspicious by Z.com Trade at its sole determination, Z.com Trade may at its own discretion delay payment of the Affiliate Commission to the Affiliate for up to one hundred and eighty (180) business days in order to verify the relevant transactions. In the event that Z.com Trade determines the activity constitutes Fraud Traffic, Z.com Trade shall recalculate or withhold the Affiliate Commission accordingly and in its sole discretion. It is hereby clarified that in any event that Z.com Trade determines that the Affiliate is involved, whether directly or indirectly, in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to Z.com Trade, including without limitation to the Z.com Trade Website, Account, Bonus, Qualified Trader, or Sub-Affiliate, Z.com Trade 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 any claim or demand against the Group, its directors, officers, shareholders, employees or against the Z.com Trade Website in respect of such action taken by Z.com Trade.

- 3.18 The Affiliate represents that it is aware and agrees that upon signing up to the Program, Introduced Clients must link through the Tracking URL or enter a sign up Introduction Code provided by the Affiliate to enable the Affiliate (and Sub-Affiliates, if applicable) to receive Affiliate Commission in relation to such potential client(s). In no event shall Z.com Trade be liable, and the Affiliate specifically waives any claim or demand for failure of Affiliate, Sub-Affiliates or any Trader to use the Affiliate's Tracking URL or for any potential Traders' failure to properly enter a sign up Introduction Code.
- 3.19 Request of payment by the Affiliate, acceptance of payment request or acceptance of other payment by Affiliate will be deemed full and final settlement of Affiliate Commission. Hence, if the Affiliate disagrees with the reports or amount payable, the Affiliate should NOT accept payment for such amount and immediately send the Z.com Trade a written notice of its dispute. Dispute notices must be received by the Z.com Trade within five (5) business days of the end of each calendar month for which payment is made, or Affiliate's right to dispute such report or payment will be deemed waived and Affiliate shall have no claims in such regard.
- 3.20 Payments made under this agreement are for use by the Affiliate only and may not be transferred or in any manner passed on to any third party, unless a special arrangement is put in place and expressly authorized beforehand in writing by the Z.com Trade.
- 3.21 In cases whereby an error is made by Z.com Trade in calculation of Affiliate Commission and an

excess amount was paid to the Affiliate as a result, Z.com Trade holds claims to, and has the right to collect the excess money being paid upon presenting appropriate evidence to the Affiliate. The excess amount shall be collected either by deducting from the Affiliate's remaining balance on its account with Z.com Trade, or by the Affiliate sending money back to Z.com Trade as soon as reasonably possible.

- 3.22 Where Z.com Trade identifies more than one Click ID for any given Introduced Client, the Affiliate Commission attributed to this client will be paid towards only to the Affiliate whose Click ID was the last to have been obtained by the Introduced Client.
- 3.23 Where the Affiliate Commission due to be paid to Affiliate is not in the same currency as the account currency of the Affiliate, the amount shall be converted to his account currency using Z.com Trade's prevailing exchange rate, which is effective on the Affiliate System.
- 3.24 Z.com Trade is unable to make payments to bank accounts held by the Partner in the jurisdiction of Hong Kong. Should the Partner request a payment to a Hong Kong-held bank account, the payment will be placed on hold indefinitely, until the Partner provides alternative means of payment which is confirmed as acceptable by Z.com Trade.

4 Z.com Trade OBLIGATIONS

- 4.1 Z.com Trade will provide the Affiliate with Marketing Materials via the Affiliate System.
- 4.2 Z.com Trade shall be under no obligation to accept as a Client any person applying as a result of the Affiliate's efforts.
- 4.3 Z.com Trade may, at its sole discretion, make decisions regarding its relationship with any Client, irrespective of whether they are an Introduced Client or not. This may include terminating any Client Live Account and setting the spread or commission applicable to the Client, in accordance with the contract between Z.com Trade and such Client.
- 4.4 In the event that a contract between Z.com Trade and an Introduced Client is cancelled, Z.com Trade will be under no obligation to make further payments to the Affiliate in respect of such Clients.
- 4.5 Without prejudice to the obligations of the Affiliate under this agreement and especially the service of acting as a mediator between Z.com Trade and the prospective client for the conclusion of a

financial transaction, including the presentation and analysis of the financial products of the company, the Z.com Trade is not responsible and has no liability for any advice or recommendation or decision provided by the Affiliate to the Client.

5 TERM AND TERMINATION

- 5.1 The Term of this Agreement is one (1) year.
- 5.2 This agreement shall commence on the date the Affiliate signs up for the Affiliate Program and agrees to these terms on the Affiliate Application Form, and unless specifically terminated in accordance with this Clause 5, shall renew automatically on an annual renewal basis upon expiration of the Term.
- 5.3 Either Party may terminate this agreement, at any time, immediately upon written notice to the other in the event that the other:
- (a) commits a breach of this agreement and, if such breach is capable of remedy, has failed to remedy the breach within five (5) business days of having received notice to remedy the breach;
 - (b) is in breach of the terms of any applicable code of practice or any other applicable code of practice, law, rule or regulation or if the continuance of this agreement would result in the other being in breach or contravention of any law, rule, regulation or code of practice.
- 5.4 Z.com Trade will automatically and without notice, terminate this agreement immediately upon the Affiliate's:
- (a) being no longer in the capacities required pursuant to this Agreement or by law; or
 - (b) being investigated, prosecuted or other sanction by any regulatory or government agency; or
 - (c) ceasing to conduct business substantially as presently conducted; or
 - (d) operating an introduced Client's account, including but not limited to trading on behalf of an Introduced Client;
 - (e) becoming insolvent, making an assignment for the benefit of the Affiliate's creditors, being

unable to meet the Affiliate's debts as they mature or making an admission in writing to that effect, filing or suffering to be filed against the Affiliate any petition under any provision of any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt or similar law or statute and in the case of a petition filed against the Affiliate, such petition shall continue undisposed for a period of twenty (20) business days; or

(f) death or judicial declaration of incompetence of the Affiliate;

(g) violation of any terms of this Agreement.

5.5 Either Party may terminate this agreement, without cause, by giving twenty (20) business days' written notice to the other.

6 CONSEQUENCES OF TERMINATION

6.1 The expiry or termination of this agreement for whatever reason shall not affect:

(a) either Party's accrued rights and obligations at the date of expiry or termination; or

(b) the coming into force or the continuance in force of any provision of this agreement which expressly or by implication is intended to come into or continue in force on or after such expiry or termination, including clauses 9, 10, 11, 12, 13, 15 and 16.

6.2 Upon termination of this agreement either due to its expiry or by mutual agreement of both Parties, there will be a period of twenty (20) business days after which Z.com Trade shall be under no further liability to pay any commissions or other amounts to the Affiliate notwithstanding that Z.com Trade may continue any contractual relationship with Introduced Clients. However this period will not be applicable should this agreement be terminated due to other reasons, and Z.com Trade shall be under no liability to pay any commissions or other amounts to the Affiliate upon termination of this agreement.

7 SUSPENSION

7.1 Without prejudice to any right, remedy or power conferred on or available to Z.com Trade under this agreement or otherwise, Z.com Trade may at its sole discretion suspend the operation of this agreement or any part of this agreement upon written notice to the Affiliate for such period as it considers appropriate, in the event that Z.com Trade believes that the warranties in clause 2.2 are no longer accurate.

8 EXTERNAL COMMUNICATIONS AND ANNOUNCEMENTS

- 8.1 The Parties shall together determine the content of any external communications and announcements concerning the relationship between the Parties. Such communications shall be issued at a time and in a manner agreed by the Parties.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 The Affiliate agrees not to use any IPR or material containing IPR belonging to Z.com Trade or any company in Z.com Trade's Group without Z.com Trade's prior written consent, such consent capable of being revoked by Z.com Trade at any time.
- 9.2 All IPR belonging to Z.com Trade or any company in Z.com Trade's Group shall remain their property.
- 9.3 The Affiliate shall immediately:
- (a) notify Z.com Trade if any claim or demand is made or action is brought against it for any infringement or alleged infringement of any IPR which (i) may affect the rights and obligation of either Party under this agreement; and/or (ii) belongs to Z.com Trade or any company in Z.com Trade's Group (the "GMO Internet Group"); and
 - (b) terminate use of any IPR or material containing IPR belonging to Z.com Trade or any company in Z.com Trade's Group upon notice from Z.com Trade.

10 INDEMNITY AND LIABILITY

- 10.1 Subject to clause 10.3, the following provisions set out Z.com Trade's entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the Affiliate whether in contract, tort, statute, equity or otherwise:
- (a) Z.com Trade's total aggregate liability arising in connection with the performance or contemplated performance of this agreement shall be limited to \$1,000; and
 - (b) Z.com Trade shall not be liable to the Affiliate for loss of business, income or profit (whether direct or indirect), loss of contracts or goodwill, lost advertising, loss of data, or any type of special, indirect, consequential or economic loss (including loss or damage suffered by the Affiliate as a result of an action brought by a third party) or damage even if such loss was

reasonably foreseeable or Z.com Trade had been advised of the possibility of the Affiliate incurring such loss;

- (c) Z.com Trade shall not be liable to the Affiliate for loss of business, income or profit (whether indirect) in the event of a system outage or emergency situation when access to any part of Z.com Trade's Website, Trading Platform or communications infrastructure is not available.

10.2 Save to the extent prohibited by any applicable laws and regulations, the Affiliate shall indemnify and hold harmless Z.com Trade from and against any and all liabilities, claims, demands, proceedings, judgments made against Z.com Trade, losses, costs, damages, expenses (including legal fees) and penalties whatsoever arising in respect of:

- (a) the Affiliate's breach of or failure, in whole or in part, to comply with the terms of, or to perform any obligations set out in, this agreement or any applicable law, rule or regulation;
- (b) the unenforceability of any contracts that Z.com Trade enters into with Introduced Clients;
- (c) any taxes, assessment or charges levied on Z.com Trade which would not have arisen had any Client applied to be a Client without having been introduced by the Affiliate; and
- (d) any infringement or alleged infringement by the Affiliate of any IPR.

10.3 No exclusion or limitation set out in this agreement shall apply in the case of death or personal injury resulting from negligence or for fraud or fraudulent concealment.

10.4 The time limit within which the Affiliate must institute a lawsuit against Z.com Trade to recover on any claim shall be 2 years from the date the Affiliate should reasonably have become aware or becomes aware of the relevant breach that would form the subject of the claim.

11 ANTI-BRIBERY

11.1 The Affiliate shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the BA 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under

sections 1, 2 or 6 of the BA 2010 if such activity, practice or conduct had been carried out in the UK;

- (c) comply with all of Z.com Trade's ethics, anti-bribery and anti-corruption policies, as Z.com Trade may adopt or update from time to time;
- (d) where the Affiliate is a corporate entity, have and maintain in place throughout the Term of this agreement its own policies and procedures, including adequate procedures under the BA 2010, to ensure compliance with clauses 11.1(a), 11.1(b), and 11.1(c), and will enforce them where appropriate;
- (e) promptly report to Z.com Trade any request or demand for any undue financial or other advantage of any kind received by the Affiliate in connection with the performance of this agreement; and
- (f) immediately notify Z.com Trade if a foreign public official becomes an officer or employee of the Affiliate or acquires a direct or indirect interest in the Affiliate (and the Affiliate warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the Commencement Date).

11.2 The Affiliate shall ensure that any person associated with the Affiliate (including any Sub-Affiliate) who is performing services or providing goods in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Affiliate in this clause 11.

11.3 For the purpose of this clause 11, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with the BA 2010.

12 CONFIDENTIALITY

12.1 Both Parties to this agreement agree to treat the terms of this agreement as confidential information and not to disclose this or any other confidential information to any third parties either during the Term of this agreement or after the agreement has been terminated, except to the extent necessary to comply with its legal and/or regulatory obligations. For the avoidance of doubt, the Affiliate agrees that Z.com Trade shall be entitled to disclose to Clients details of the arrangements under this agreement for the payment to the Affiliate. Upon termination of this

agreement for any reason, the Affiliate shall promptly return or destroy, at the direction of Z.com Trade, all of Z.com Trade's confidential information in its possession or control. Z.com Trade may require written confirmation by the Affiliate that all Z.com Trade confidential information has been destroyed or deleted and may withhold any payments due under this agreement until the Affiliate has supplied Z.com Trade with the requested written confirmation.

13 DATA PROTECTION

13.1 To the extent that the Affiliate processes (as defined under the DPA 1998, which also defines Data Controller, Data Processor and Personal Data) Personal Data, the Affiliate shall (and shall procure that all its officers, employees, contractors and agents shall), in relation to all Personal Data provided to it by Z.com Trade:

- (a) take appropriate technical, organisational and security measures in accordance with industry's best practices to protect against unauthorised or unlawful processing of and accidental loss or destruction of, or damage to, Personal Data as are required to comply with the requirements of the seventh principle of the DPA 1998;
- (b) only process Personal Data (including exporting Personal Data from the European Economic Area) in accordance with Z.com Trade's instructions;
- (c) shall not appoint any sub-Processor without the prior written consent of Z.com Trade; and
- (d) take reasonable steps to ensure the reliability of any of the Affiliate's personnel who have access to the Personal Data.

13.2 Further to (and without prejudice to the generality of the Affiliate's obligations under) clause 13.1(a) above, appropriate technical, organisational and security measures include:

- (a) guaranteeing the confidentiality and availability of the Personal Data, where:
 - (i) confidentiality means that only people who are authorised to use the Personal Data can access it; and
 - (ii) availability means that authorised users should be able to access the Personal Data if they need it for an authorised purpose. Personal Data should therefore be stored on the Affiliate's central computer system instead of individual PCs; and

- (b) security procedures which include:
 - (i) entry controls (for example, any stranger seen in entry-controlled areas should be reported);
 - (ii) secure lockable desks and cupboards (for example, desks and cupboards should be kept locked if they hold confidential information of any kind. Personal Data is always considered confidential);
 - (iii) methods of disposal (for example, paper documents should be shredded and CD-ROMs should be physically destroyed when they are no longer required); and
 - (iv) equipment (for example, Personal Data users should ensure that individual monitors do not show confidential information to passers-by and that they lock their PC when it is left unattended).

- 13.3 Personal Data provided by Z.com Trade to the Affiliate should not be kept for longer than is necessary for the purpose defined by Z.com Trade. This means that all such Personal Data should be destroyed or deleted from the Affiliate's systems when it is no longer required and in any event upon termination or expiry of this agreement. Z.com Trade may require written confirmation by the Affiliate that all such Personal Data has been destroyed or deleted and may withhold any payments due under this agreement until the Affiliate has supplied Z.com Trade with the requested written confirmation.

- 13.4 The Affiliate shall ensure that no act or omission by it, its officers, employees, contractors or agents results in a breach of the obligations of Z.com Trade under the DPA 1998.

- 13.5 The Affiliate shall, from time to time as reasonably requested by Z.com Trade, provide to Z.com Trade a written description of the technical and organisational methods used by the Affiliate in relation to any Personal Data provided to it by Z.com Trade.

- 13.6 If the Affiliate provides Z.com Trade with any Personal Data in respect of prospective Clients, the Affiliate shall ensure that such Personal Data is provided to Z.com Trade in compliance with applicable laws, regulations and rules as are in force from time to time such that Z.com Trade may use that Personal Data to offer Z.com Trade Products and Services to such prospective Clients.

- 13.7 Z.com Trade is entitled, on giving at least seven (7) business days' notice to the Affiliate, to inspect

or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of Personal Data by the Affiliate to verify that the Affiliate is in compliance with its obligations under this agreement in relation to the processing of Personal Data.

13.8 The Affiliate shall:

(a) promptly notify Z.com Trade if any:

(i) complaint is received by the Affiliate about the processing of Personal Data from third parties (including regulators and Data Subjects); or

(ii) criticism received by the Affiliate from the UK Information Commissioner's Office or any regulator of any of the technical and organisations security measures, and in each case the Affiliate shall provide Z.com Trade with full details of the complaint or criticism, not make any admissions or take any action which may be prejudicial to the defense or settlement of any such complaint or criticism and shall assist Z.com Trade in such manner as Z.com Trade may require in connection with the same;

(b) promptly notify Z.com Trade if a security breach has occurred or arisen (or may occur or arise) of which it is aware and shall co-operate with Z.com Trade to take such steps as are necessary to comply with Z.com Trade's procedures (or, if applicable, any security breach notification laws or requirements) in the event of such breach or threatened breach; and

(c) promptly notify Z.com Trade of persons requesting from the Affiliate disclosure of, or information relating to, any Personal Data and, if requested by Z.com Trade, comply with a data access request within the relevant timescales set out in the DPA 1998 and in accordance with Z.com Trade's instructions.

14 NOTICES

14.1 A notice or other communication given to a Party under or in connection with this agreement shall be in writing and in English, shall be signed by or on behalf of the Party giving it, and sent to the address specified herein (or to such other address as that Party may notify to the other in writing).

14.2 The notice or other communication may be given or made by the following methods and shall be

deemed to have been duly given or made as follows:

- (a) if personally delivered or sent by commercial courier or recorded delivery, upon delivery at the address of the relevant Party;
- (b) if sent by first-class post, two (2) business days after the date of posting; or
- (c) if sent by facsimile or email, at the time of transmission, provided that if, in accordance with the above provision, any such notice or other communication would otherwise be deemed to be given or made after 5.00 p.m. GMT it shall be deemed to be given or made at 9.00 a.m. GMT on the next Business Day.

15 GENERAL

15.1 Assignment: The Affiliate shall not assign any of its rights or transfer any of its obligations under this Agreement or otherwise dispose of this agreement, or any part thereof, without the prior written consent of Z.com Trade. Z.com Trade may assign or transfer or otherwise dispose of this Agreement, or any part thereof, on giving notice to the Affiliate.

15.2 Entire Agreement:

- (a) Except in the case of fraud or fraudulent concealment, this agreement constitutes the entire Agreement between the Parties in relation to the subject matter hereof and supersedes all other written or oral agreements, terms or representations in respect of the subject matter.
- (b) Each Party confirms that it has not been induced to enter into this agreement in reliance upon, nor has it been given, any warranty, representation, statement, assurance, covenant, agreement, undertaking, indemnity or commitment of any nature whatsoever other than as are expressly set out in this agreement and, to the extent that it has been, it unconditionally and irrevocably waives any claims, rights or remedies which it might otherwise have had in relation thereto.

15.3 Third Party Rights: No provision of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by any party who is not a party to it.

15.4 Amendment: Z.com Trade may, by written notification to the Affiliate, vary this agreement as it deems necessary to comply with any applicable laws, regulations or rules. All other variations to

this agreement may be made with the mutual written consent of the Parties.

- 15.5 Waiver: No breach of any provision of this agreement will be waived or discharged except with the express written consent of the Parties. No failure or delay by a Party to exercise any of its rights under this agreement will operate as a waiver thereof and no single or partial exercise of any such right will prevent any other or further exercise of that or any other right.
- 15.6 Severability: If any provision of this agreement is or becomes for any reason whatsoever invalid, illegal or unenforceable, that provision will be deemed deleted from this agreement and will not affect the validity or enforceability of any remaining provision.
- 15.7 Counterparts: This agreement may be executed in any number of counterparts which together will constitute one agreement. Either Party may enter into this agreement by executing a counterpart, and this agreement will not take effect until it has been executed by both Parties.
- 15.8 No Partnership: The Parties acknowledge that nothing in this agreement implies or constitutes a relationship between the Parties of partnership, joint venture or agent and no Party will hold itself out as being an officer, agent or employee of the other Party or as having the authority to bind the other Party without the other Party's prior written consent.
- 15.9 Further Assurances: The Affiliate shall, upon Z.com Trade request, do and execute, or procure that there shall be done and executed, all such documents, deeds, matters, acts or things as that other may at any time require to give Z.com Trade the full benefit of this agreement.
- 15.10 Successors: This agreement shall be binding upon and ensure for the benefit of Z.com Trade's successors in title.

16 GOVERNING LAW AND JURISDICTION

This agreement and any dispute or claim whatsoever relating to it or its formation will be governed by and construed in accordance with English law and the Parties irrevocably agree that the courts of England will have exclusive jurisdiction.

17 LANGUAGE OF COMMUNICATIONS

Translations of this document in other languages are provided for referential purposes only. For the avoidance of doubt, the English version shall prevail in the event of any inconsistencies or ambiguities.