



## Nadex Affiliate Partner Agreement

By clicking the box entitled “I have read and agreed to the Nadex Affiliate Partner Agreement” in the Affiliate Registration form, You agree to the terms of this agreement (the “Agreement”) with the North American Derivatives Exchange, Inc. (“Nadex”), and that You will meet all the requirements of the Affiliate Program.

Nadex and Affiliate may be referred to individually as a "Party" and collectively as the "Parties" in this Agreement.

### 1 Definitions

- 1.1 **Account:** The uniquely assigned account that is created for each Introduced Client when it completes an account application at any Nadex Site(s) and is approved by Nadex.
- 1.2 **Affiliate:** An individual or entity that has received confirmation from Nadex, in accordance with clause 2.1, that it is included in the Program in accordance with the terms of this Agreement.
- 1.3 **Affiliate Fee(s):** The amount payable to the Affiliate due to the Compensation Plan, based solely and exclusively on Nadex's data and calculations as specified in the Report.
- 1.4 **Affiliate Guidelines:** The guidelines available in the Affiliate Portal or otherwise provided to Affiliate upon application or acceptance to the program which sets forth the parameters within which Affiliate content must comply and the process for obtaining content approval.
- 1.5 **Affiliated Party(ies):** Any of the following: (i) any member of the Affiliate's immediate family; and (ii) any individual, corporation, partnership, joint venture, trust, and any other body corporate or unincorporated organization, directly or indirectly controlling, controlled by or under common control with Affiliate.
- 1.6 **Affiliate Registration:** The registration form located in the Affiliate Portal, to be completed by an applicant for the purposes of applying to participate in the Program.
- 1.7 **Affiliate Portal:** The area of the Site(s) where an individual or entity may apply to become a Nadex Affiliate Partner, and each Affiliate may review the Report, update their profile, create additional Tracker IDs, select Marketing Collateral and other functions that may be added and/or removed at any time by Nadex at its sole and absolute discretion.
- 1.8 **Compensation Plan:** The Affiliate compensation plan whereby the Affiliate shall receive its Affiliate Fee according to the number of Qualified Introduced Open Accounts referred by it to the Site(s) (as updated from time to time at Nadex's sole and absolute discretion), which shall be documented in an Addendum and incorporated by reference.

- 1.9 **Fraud Traffic:** Any deposits, gross revenue or traffic generated at any Site through illegal means or in bad faith, regardless of whether or not it actually causes harm to any member of Nadex or any third party. 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 Fee or any information about the conditions to become a Qualified Introduced Client directly or indirectly with Introduced Clients**, and any other unauthorized use of any third party accounts, copyrights or trademarks.
- 1.10 **IG Group:** IG and its “parent undertakings”, “subsidiary undertakings” or “subsidiary undertakings” of its “parent undertakings” (each term as defined in the UK Companies Act 2006).
- 1.11 **Introduced Client(s):** Any user of the Trading Platform, referred by Affiliate, who has the potential to become a Qualified Introduced Client/owner of a Qualified Introduced Open Account.
- 1.12 **Marketing Collateral:** Any means of banners, text links, graphics, pictures, video, animation, artwork or text provided by Nadex to an Affiliate (unless otherwise agreed between the Parties) which an Affiliate solely uses to promote the Program and/or to hyperlink Introduced Clients from Affiliate's website to any Site.
- 1.13 **Marketing Material(s):** Any material provided by Nadex (unless otherwise agreed between the Parties) and used by an Affiliate in order to promote any activity related to Nadex or the Site(s), including Marketing Collateral and any other promotional material that an Affiliate subsequently uses or develops to refer or hyperlink Introduced Clients from the Affiliate's website to the Site(s).
- 1.14 **Nadex:** North American Derivatives Exchange, Inc.
- 1.15 **Nadex Marks:** Trademarks, trade names, service names, Marketing Collateral, marketing tools, logos of Nadex placed on the Trading Platform or otherwise used with respect to the Trading Platform or the Site(s) and all similar proprietary rights, together with all translations, adaptations, derivations and combinations thereof, all applications, registrations and renewals in connection therewith, and all rights to corporate names, meta-tags and universal resource locators owned or used by Nadex, including without limitation the “N”, “Nadex”, “.nadex”, and any other mark as may be used by Nadex, from time to time.
- 1.16 **Non-Active Affiliate:** Any Affiliate generating fewer than five (5) new Qualified Introduced Clients per quarter.
- 1.17 **Open Account:** An Account that has been approved by Nadex and is able to be funded and traded.
- 1.18 **Program:** The Nadex affiliate program, as may be amended from time to time at Nadex's sole and absolute discretion.
- 1.19 **Qualified Introduced Client:** An individual which was directed by an Affiliate, and identified by a Tracker ID assigned to such Affiliate , provided that:

- (a) such individual was referred to Nadex through the Affiliate's Nadex approved URL, which contains written content that has received prior written approval from Nadex;
- (b) such Affiliate is confirmed by Nadex as included in the Program and is linked to the Site(s) in accordance with this Agreement;
- (c) such individual has a Qualified Introduced Open Account;
- (d) such individual is not already registered to the Site(s), including through registration under a different name or through a different identity; and

For the avoidance of doubt, neither an Affiliate nor any of its Affiliated Parties are eligible to become Qualified Introduced Clients under such Affiliate's Tracker ID(s), and should an Affiliate or any of its Affiliated Parties register in such a manner, the Affiliate will not be eligible to receive the applicable commission or any other compensation whatsoever.

In addition to any other requirements set forth in the Nadex Rules, Membership Agreement, and Terms of use, in order to be a Qualified Introduced Client, an individual must be a resident of the United States. An entity is not eligible to become a Qualified Introduced Client.

- 1.20 **Qualified Introduced Open Account:** An account owned by a Qualified Introduced Client, which has been approved by Nadex and is able to be funded and traded.
- 1.21 **Regulator:** The United States Commodity Futures Trading Commission and/or any other relevant regulatory authority.
- 1.22 **Report:** Information regarding the Affiliate Fees, the Introduced Client tracking and other information relevant to the Affiliate provided by Nadex in the Affiliate Portal.
- 1.23 **Site(s):** www.nadex.com and any other website as may be added by Nadex, in its sole and absolute discretion, from time to time.
- 1.24 **Spam or Unsolicited Promotions:** Any emails or any other messages that are circulated by an Affiliate, directly or indirectly, including messages that are posted on social media networks, newsgroups, forums, chat boards and other types of online media and which:
  - (a) contain false, deceptive, or misleading statements, header information, or subject lines;
  - (b) do not identify the message as an ad;
  - (c) do not truthfully identify the source and location from which it was sent; or
  - (d) do not provide the recipient with an option to easily be removed from receiving future mailings or promotions.
- 1.25 **Tracker(s) ID:** The unique identification code, which is related to the Tracking URL or sign-up bonus codes that Nadex provides exclusively to the Affiliate, through which Nadex tracks and calculates the Affiliate Fee.

- 1.26 **Tracking URL:** A unique hyperlink to the Site(s) enabling an Affiliate to refer potential Introduced Clients to the Site(s), and which enables Nadex to identify the Affiliate that has referred such specific Introduced Client for the purpose of calculating the Affiliate Fee.
- 1.27 **Trademarks:** All trademarks (registered and unregistered), service marks and logos displayed on the Site(s).
- 1.28 **Trading Platform:** The technology dedicated for online trading, allowing participants to trade online either for practice or for real money, and including Nadex's billing, support, retention and promotion services and activities.
- 1.29 In this Agreement:
- (a) Clause and paragraph headings shall not affect the interpretation of this Agreement.
  - (b) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
  - (c) Unless the context otherwise requires:
    - (i) words in the singular shall include the plural and in the plural shall include the singular;
    - (ii) a reference to one gender shall include a reference to the other genders;
    - (iii) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
    - (iv) a reference to writing or written includes email; and
    - (v) any phrase followed by the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2 Affiliate Program**

### **2.1 Participation:**

- (a) In order to participate in the Program an applicant must complete and submit an Affiliate Registration form, as well as all other documentation required by this Nadex Agreement to participate in the Program, or other information as requested by Nadex.
- (b) On the basis of the applicant's completed Affiliate Registration form, Nadex may, at its sole and absolute discretion, either accept or reject the applicant to join the Program.
- (c) In the event that Nadex approves the applicant, Nadex shall inform such applicant that it is accepted to be included in the Program and provide it with a Tracker ID linked to the Site(s) pursuant to which, subject to the terms and conditions of this Agreement, the applicant shall be an Affiliate.

2.2 **Appointment of Affiliate:**

- (a) Upon Nadex's approval of the applicant as an Affiliate, in accordance with clause 2.1, and by the acceptance of the terms and conditions of this Agreement, Nadex grants the Affiliate a revocable, non-exclusive, non-transferable, non-sub-licensable and worldwide limited right to direct potential Introduced Clients and Qualified Introduced Clients to the Site(s), subject to the terms and conditions of this Agreement.
- (b) This Agreement does not grant the Affiliate an exclusive right or privilege to assist any member of Nadex in the provision of services arising from the Affiliate's referrals, and any member of Nadex intends to contract with and obtain the assistance of other affiliates to perform services of the same or similar nature as those provided by the Affiliate. The Affiliate shall have no claims to fees originated from Introduced Clients or Qualified Introduced Clients not referred solely by it.

2.3 **Compensation Plan:** Nadex will compensate Affiliate in accordance with the Compensation Plan for Qualified Introduced Open Accounts as that term is defined in Section 1.20 of this Agreement. Nadex will have the ability to establish a maximum cap for the number of Qualified Introduced Open Accounts for which it will compensate Affiliate on a monthly basis, and may adjust this cap, and/or the Affiliate Fee, as it determines appropriate based on a review of the quality of referrals received from the Affiliate. Affiliate will not receive compensation for any Qualified Introduced Open Accounts referred beyond the maximum cap established by Nadex, unless Affiliate has requested and received prior written approval by Nadex. Nadex will only compensate Affiliate for Qualified Introduced Open Accounts registered to an individual who is a resident of the United States.

**Amendments to Compensation Plan:** Nadex may change the Affiliate's Compensation Plan, at any time and at its sole and absolute discretion, by sending the Affiliate a notice to such effect by email upon at least ten (10) business days' prior notice. In the event Affiliate does not agree to such change, it shall notify Nadex by return email within five (5) days of receiving such notice from Nadex and the Agreement shall terminate immediately. In the event the Affiliate does not notify Nadex by email within five (5) days from receipt of the notice, it shall be deemed as an approval by the Affiliate to such change in the Compensation Plan. For the avoidance of doubt, the Affiliate will receive a one-off payment with respect to Introduced Clients identified by a Tracker ID prior to the date of any such change in the Compensation Plan, in accordance with the applicable Compensation Plan at the date such Introduced Clients registered to the Site. Unless otherwise agreed by the Parties in writing, any amendment(s) to the Compensation Plan will not apply retroactively.

2.4 **Costs and Expenses:** The Affiliate shall bear all costs and expenses of any nature whatsoever incurred in connection with this Agreement. Under no circumstances shall Nadex be liable hereunder for any amounts other than the Affiliate Fee.

2.5 **Set-off:** Nadex will at any time have the right to set off any losses incurred in respect of, or any debit balances in, any accounts in which the Affiliate may have an interest against any sums or other assets held by Nadex for or to such Affiliate's credit on any other account in which the Affiliate may have an interest. If any loss or debit balance exceeds all amounts so held, the Affiliate must forthwith pay such excess to Nadex whether demanded or not. The Affiliate also

authorizes Nadex to set off any losses incurred in respect of, or any debit balances in, any account held by such Affiliate with a member of Nadex against any credit on the Affiliate's account(s) with Nadex.

### **3 No Competitive Marketing**

The Affiliate shall not be entitled to market to any potential Introduced Clients on any of the following:

- (a) on any internet search engine, display, or cost per impression advertising on which Nadex promotes any of the Site(s) (e.g. Google.com, Bing.com, etc.) (unless otherwise approved by Nadex in written form, as necessary);
- (b) in any other manner which results in the Affiliate competing with Nadex in relation to the promotion of Site(s), including but not limited to the promotion of the Affiliate's website(s) through other affiliates;
- (c) any other online software, application, or other platform enabling online trading similar to and/or in competition with the Trading Platform; or
- (d) by using any Nadex Marks (or any variation or combination thereof) in the Affiliate's domain name (e.g. "N", "Nadex", ".nadex", etc.).

**In the event that an Affiliate is in breach of the provisions of this clause 3, Nadex 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 the Affiliate's access to the Program, with no compensation to such Affiliate. The Affiliate hereby irrevocably waives its rights to, and shall indemnify Nadex and any member of the IG Group for, any claim or demand made against Nadex or any member of the IG Group, their directors, officers, shareholders, employees or against the Site(s) in respect of such action taken by Nadex.**

### **4 Tracking / Payment**

4.1 **Affiliate Fee:** Subject to provisions in this Section 4, the Affiliate Fee shall be calculated as follows:

- (a) **Compensation Plan:** The Affiliate Fee for each Qualified Introduced Open Account referred by an Affiliate to any Site shall be specified in the Affiliate Portal, as updated from time to time in Nadex's sole and absolute discretion.

4.2 **Tracking and Payment:** Nadex shall track Introduced Clients' activity for the purpose of calculating the Affiliate Fee and such information shall be available to the Affiliate in the Affiliate Portal. Unless otherwise agreed between the parties, the Affiliate Fee shall be paid on a monthly basis in arrears in accordance with the information set forth in the Report.

4.3 **Time of Payment:** Unless otherwise agreed between the Parties, the Affiliate Fee will be payable within thirty (30) calendar days after the end of each calendar month.

- 4.4 **Method of Payment:** Affiliate Fees paid by Nadex shall be paid in US Dollars, in accordance with Nadex's policy and subject to applicable laws. Unless otherwise agreed between the Parties, payment will be made via ACH to a bank account in the name of the Affiliate. Charges for wires or courier charges for checks will be covered by the Affiliate and deducted from the Affiliate Fee.
- 4.5 **Compensation for Qualified Introduced Open Accounts 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 Fee for any Introduced Client unless and until such Introduced Client has been approved and qualified by Nadex as having a Qualified Introduced Open Account. For the avoidance of doubt, Nadex 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 Fee set out in this Agreement.
- 4.6 **Introduced Client Verification:** The Affiliate Fee in relation to new Qualified Introduced Open Account will be payable only following Nadex's verification and checks concerning all new Introduced Clients in accordance with the requirements of any applicable law and Nadex's internal verification process.
- 4.7 **Entitlement to Affiliate Fees:** Notwithstanding any other provision in this Agreement, the Affiliate shall no longer be entitled to receive the Affiliate Fee for any Introduced Client carrying the Affiliate's Tracker ID following six (6) months from the date such Introduced Client registered to any Site.
- 4.8 **Non-Active Account:** Notwithstanding any other provision in this Agreement, a Non-Active Affiliate is subject to termination from the Program in Nadex's sole discretion without further notice.
- 4.9 **Holdover for Non-Compliance:** Notwithstanding any other provision in this Agreement, Nadex may, in its sole and reasonable discretion, withhold, delay or deny payment of the Affiliate Fee in any of the following non-compliance events, provided that it first notify Affiliate in writing and provide Affiliate the opportunity to correct such non-compliance within 10 business days of the notice and Affiliate does not correct the non-compliance:
- (a) Nadex has reason to suspect that the Affiliate's activity is not in compliance with any applicable laws or regulations, including any regulation(s) promulgated by the United States Federal Trade Commission regarding digital advertising;
  - (b) Nadex has reason to suspect that the Affiliate's activity is in breach of this Agreement;
  - (c) the Affiliate has failed to complete any form as may be required by Nadex or has entered misleading or incorrect information in a form provided by the Affiliate to Nadex;
  - (d) the Affiliate has failed to provide any document as may be requested by Nadex; and/or
  - (e) Nadex has been notified by any third party of the alleged infringement of property or rights (e.g. intellectual property rights) by the Affiliate or by the Affiliate's activity;

- (f) Nadex has reason to suspect the Affiliate altered or amended in any manner previously approved Marketing Material as defined herein without obtaining approval of the Nadex Compliance Department for the changes;
- (g) Nadex has reason to suspect the Introduced Client was referred to Nadex via a URL, or as the result of URL content, affiliate links, and/or marketing material which had not received approval from the Nadex Compliance Department at the time the Introduced Client was referred.

The Affiliate hereby irrevocably waives its rights to, and shall indemnify Nadex for, any claim or demand made against Nadex, their directors, officers, shareholders, employees or against any Site in respect of the exercise by Nadex of its rights in this clause 4.9.

4.10 **Holdover for Fraud Traffic:**

- (a) Notwithstanding any other provision in this Agreement, in the event that any activity in the Affiliate's account, or in any account which appears to be controlled or managed by the Affiliate, is deemed suspicious by Nadex in its sole determination, Nadex may, in its sole and absolute discretion, delay payment of the Affiliate Fee to the Affiliate for up to one hundred and eighty (180) days in order to verify the relevant transactions
- (b) In the event that Nadex determines that an activity constitutes Fraud Traffic, Nadex shall recalculate or withhold the Affiliate Fee to exclude fees associated with such Fraud Traffic, and will notify Affiliate of such Fraud Traffic in writing.
- (c) Notwithstanding clause 4.9 above and for the avoidance of doubt, in any event that Nadex determines that Affiliate is involved, whether directly or indirectly, in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to Nadex, including without limitation to the Site, Account(s), Qualified Introduced Client(s). Nadex shall have the right, in addition to any other right or remedy available to it under this Agreement or applicable law, to render the Tracking URLs assigned to such Affiliate inoperative, and immediately block Affiliate's access to the Program, with no compensation to Affiliate.

The Affiliate hereby irrevocably waives its rights to, and shall indemnify Nadex and any member of the IG Group for, any claim or demand made against Nadex or any member of the IG Group, their directors, officers, shareholders, employees or against any Site in respect of the exercise by Nadex of its rights in this clause 4.10.

4.11 **Introduced Client Tracking:** The Affiliate represents that it is aware and agrees that each Introduced Client, upon signing up, must link through a Tracking URL provided to it by the Affiliate to enable such Affiliate to receive the Affiliate Fee in relation to such potential Introduced Client(s). In no event shall Nadex or any member of the IG Group be liable, and Affiliate specifically waives any claim or demand in relation to any fees associated with any Tracking URL or bonus code that has not been validly received by Nadex by the end of the calendar month in which that fee arose or for failure of the Affiliate or any Introduced Client to use the relevant Affiliate's Tracking URL or for any potential Introduced Client's failure to properly enter a sign up bonus code.

- 4.12 **Payment Disputes:** The acceptance of a payment check, a payment transfer or any other payment by the Affiliate will be deemed full and final settlement of Affiliate Fee due for the corresponding calendar month. Hence, if the Affiliate disagrees with the Reports or amount payable, the Affiliate should NOT accept payment for such amount and immediately send Nadex a written notice of its dispute. Dispute notices must be received by Nadex within thirty (30) calendar 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.
- 4.13 **Tax:** Each Party shall be responsible for its own tax liabilities in its respective territory, including any company or corporate tax, national taxes, federal or state.

## 5 Additional Terms of Participation in the Program

- 5.1 **Provision of Information and On-Boarding Documentation:** The Affiliate shall, to the best of its knowledge, provide true, accurate and complete information to Nadex as may be requested by Nadex from time to time. The Affiliate hereby consents that Nadex may disclose certain information about the Affiliate, including the Affiliate's Fee and performance statistics: (i) where it is required to by law; (ii) to any member of the IG Group or any of their partners; (iii) to its Regulator or other relevant regulatory authorities upon their reasonable request; (iv) to such third parties as Nadex deems reasonably necessary in order to prevent crime; and (v) to such third parties as Nadex sees fit to assist in enforcing its legal or contractual rights against the Affiliate, including but not limited to, debt collection agencies and legal advisors. The Affiliate further acknowledges that it is aware that prior to receiving any Affiliate Fee, the Affiliate must provide Nadex with all information as may be requested by Nadex, including but not limited to any information required pursuant to its Regulatory or any relevant regulatory authority. Such information may include, but is not limited to, the following:

(a) **For an Individual:**

- (i) copy of a valid photographic identification card;
- (ii) full name;
- (iii) any national identity number, tax identification number, or social security number;
- (iv) W-8 BEN or W-9;
- (v) date of birth;
- (vi) nationality;
- (vii) address of residence;
- (viii) contact information (telephone, email, etc.);
- (ix) location and nature of marketing activities;

- (x) copy of a recent bank statement (not older than 3 months from the date of the Affiliate Registration form) showing the name and address of such individual; and
  - (xi) bank details for commission remittances, including: name on bank account, bank account number and sort code or IBAN, Bank name and address.
- (b) **For a company:**
- (i) registered name;
  - (ii) company identification number or tax identification number;
  - (iii) W-8 BEN or W-9;
  - (iv) country of registration;
  - (v) registered office address in the country of registration;
  - (vi) certificate of incorporation/organization and articles of incorporation/organization;
  - (vii) certificate of good standing;
  - (viii) operating agreement or bylaws;
  - (ix) business address if different from registered office address;
  - (x) regulatory/licensing registration number, if applicable;
  - (xi) names of directors/partners;
  - (xii) copy of a valid photo identification card of the main executive director and/ or partner including name, address and date of birth;
  - (xiii) copy of a valid photo identification card and details of beneficial owner(s) of 5% or more of the share capital of the company, including name, address and date of birth; and
  - (xiv) bank details for commission remittances, including: name on bank account, bank account number and sort code or IBAN, bank name and address.

## 5.2 **Warranties**

Each Affiliate hereby warrants the following:

- (a) it will, at all times, has the requisite capacity and authority to enter into this Agreement;
- (b) it does not require authorization to provide the services, or, if it does, it already has the requisite authorization and that it will promptly notify Nadex in writing if there is any change in such authorization;

- (c) it will not issue any advertisement or distribute any promotional material, whether on the internet or otherwise, about Nadex (except for the Marketing Materials) without Nadex's express prior written consent;
- (d) it will not do, or neglect to do, anything which as a result of its action or omission, leads to a detrimental outcome for Nadex.

### 5.3 **Marketing Materials**

- (a) The Affiliate's Marketing Materials shall comply with the Affiliate Guidelines and the restrictions set forth in clause 5.5 below. **The Affiliate shall not market any Marketing Materials via email, search engine marketing, display advertising, cost per impression advertising, or social media without the prior written consent of Nadex.**
- (b) Prior to the Affiliate's amendment of any Marketing Materials, the Affiliate shall submit a sample to Nadex for its review and approval. The amended Marketing Material may be used by the Affiliate only upon receiving the explicit written approval by Nadex, which may be granted or denied or require amendments to the Marketing Materials, in Nadex's sole and absolute discretion. In the event such approval is granted, the Affiliate agrees and hereby assigns and transfers to Nadex, its successors, assignees, and/or nominees, all of Affiliate's right, title and interest to any Marketing Materials created and made by (or on behalf of) the Affiliate. In order to comply with the applicable laws, requirements, and regulations of its Regulator or any relevant regulatory authority, Nadex may require Affiliate to disclose any URLs which have been used in respect of any Marketing Materials.
- (c) In the event that the Affiliate makes use of any Marketing Material not approved by Nadex, Nadex shall have the right, in addition to any other right or remedy available to it under this Agreement or any applicable law, to render the Tracking URLs assigned to such Affiliate inoperative, and immediately block Affiliate's access to the Program and deny any Affiliate Fee, with no compensation to the Affiliate. The Affiliate hereby irrevocably waives its rights to, and shall indemnify Nadex and any member of the IG Group for, any claim or demand made against Nadex and/or any member of the IG Group, their directors, officers, shareholders, employees or against any Site in respect of such action taken by Nadex.

5.4 **Disclosures.** Affiliate must maintain the proper advertiser disclosures as required by the United States Federal Trade Commission. Failure to maintain the proper disclosures will be a material breach of this Agreement.

5.5 **Restrictions.** **Affiliate may only market to prospective Introduced Clients in the United States and Marketing Materials for Nadex may only be displayed in the United States.** All Affiliate activities must be professional, proper and in full compliance with applicable laws and regulations (including any anti-bribery and anti-corruption laws and regulations and any regulation(s) promulgated by the United States Federal Trade Commission regarding digital advertising); all URLs, URL content, affiliate links, and marketing material must receive prior approval from the Nadex Compliance Department; and the Affiliate will be solely responsible for the content and manner of its activities. An Affiliate and its website(s), may not be engaged, directly or indirectly, in conduct that Nadex, in its sole and absolute discretion, deems to be illegal, improper, unfair or otherwise adverse to the operation or reputation of Nadex, any

member of the IG Group, or any Site, or detrimental to other users of the Site(s), including without limitation, directly or indirectly:

- (a) operating an illegal business, site or subscription email list;
- (b) engaging in any illegal activity of any type, including but not limited to displaying illegal content on the Affiliate's website or in the Affiliate's subscription emails or offering any illegal good or service through the Affiliate's website or subscription emails;
- (c) operating a website that contains or promotes content that is libellous, defamatory, obscene, abusive, violent, bigoted, hate-oriented, illegal, pornographic, related to gambling or link to a website that contains or promotes such content;
- (d) engaging in indiscriminate or unsolicited commercial advertising emails;
- (e) utilizing any downloadable software, toolbars, pay-per-click search engine marketing, display advertising, or cost per impression advertising on any browser in connection with this Program without the express written consent of Nadex;
- (f) matching for protected keywords;
- (g) placing links to any of the Site(s) in Spam or Unsolicited Promotions, banner networks, counters, guest books, IRC channels or through similar internet resources;
- (h) causing or enabling any transactions to be made that are not in good faith, including among others by means of any device, program, robot, hidden frames and redirects, and "bogus" traffic (in each case without derogating from other remedies Nadex or any member of the IG Group may have in law, equity or otherwise);
- (i) establishing or causing to be established, without the prior written consent of Nadex, any promotion that provides any rewards, points or compensation for and any other activity that Nadex deems at its sole and absolute discretion to be of similar nature, or that allows third parties to place links to the Site(s);
- (j) utilizing nadex.com or any variation of Nadex or North American Derivatives Exchange, Inc., including any misspelling, modification, or derivative of nadex.com, Nadex, North American Derivatives Exchange, Inc., or any other Trademark;
- (k) diluting, blurring or tarnishing the value of the Trademarks;
- (l) utilizing any third party's intellectual property (including, but not limited to, trademarks) without authorization; or
- (m) offering any Introduced Client, whether directly or indirectly, any kind of arrangement for payment or portion of the Affiliate Fee, or any other incentive which may be considered to be a "fee sharing arrangement", "rebate", or "soft dollar" compensation between Affiliate and Introduced Client.

Nadex 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 violating the restrictions in this clause 5.4 inoperative, and immediately block the Affiliate's access to the Program, with no compensation to such Affiliate. The Affiliate hereby irrevocably waives its rights to, and shall indemnify Nadex and any member of the IG Group for, any claim or demand made against Nadex or any member of the IG Group, their directors, officers, shareholders, employees or against the Site(s) in respect of such action taken by Nadex.

5.6 **Age**

- (a) In order to participate in the Program, the Affiliate must be aged 18 years or older.
- (b) The Affiliate may not actively target marketing to any persons who are under the age of 18 years old, or (provided it is older than 18 years old) under the age of majority in the territory in which the Affiliate is operating.

5.7 **Forbidden Countries**

The Affiliate may only geo-target marketing to residents of the United States.

**6 Links / Trademarks and Logos / Data Ownership**

- 6.1 Subject to the terms of this Agreement, Nadex grants to the Affiliate, a revocable, non-exclusive, non-transferable, non-assignable, non-sub-licensable, worldwide limited license to display on such Affiliate's website the Marketing Material provided by Nadex to the Affiliate for the sole purpose of providing a link from such Affiliate's website, which website has been confirmed by Nadex as included in the Program, to the homepage of the Site(s) (but no other page) via the Tracking URL(s) provided by Nadex. Unless otherwise approved in advance in writing by Nadex, the Affiliate may not promote, whether directly or indirectly, any of the Nadex Marks, and in any event, may not modify or change of the Nadex Marks in any way. No framing of any webpage of any of the Site(s) is permitted.
- 6.2 The Affiliate, and anyone on the Affiliate's behalf, shall not assert the invalidity, unenforceability, or contest the ownership of any of the Nadex Marks in any action or proceeding of whatever kind or nature, and shall not take any action that may prejudice Nadex's rights in any Nadex Marks, render the same generic, or otherwise weaken their validity or diminish their associated goodwill.
- 6.3 Except as explicitly permitted herein, nothing in this Agreement or on any of the Site(s), should be construed as granting, by implication, estoppel or otherwise, any licence or right to use any Nadex Marks.
- 6.4 All Introduced Clients shall be considered as clients of Nadex only. Nadex shall be the sole and exclusive owner of the database of names and contact information and any other data of all Introduced Clients, including Introduced Clients identified by a Tracker ID. The Affiliate may not contact an Introduced Client without receiving Nadex's prior written approval for such contact. If in Nadex's opinion the Affiliate either tries to, or does, make contact with an Introduced Client without Nadex's prior written approval, Nadex shall be entitled to immediately terminate this Agreement and to withhold all commissions owed to Affiliate at such time. Further, in the event

that the Affiliate was provided by Nadex with written approval to contact or correspond with an Introduced Client, and thereafter Nadex deems that such contact or correspondence is against the interests of Nadex or any member of the IG Group, Nadex shall have the right to revoke the approval previously granted, to terminate this Agreement and to withhold all commissions owing to Affiliate at such time. The Affiliate agrees that Nadex may access information from or about visitors to Affiliate's website, and may use such information for any purpose.

## **7 Limitation of Liability**

In no event shall Nadex or any member of the IG Group, their officers, directors, shareholders, employees, service providers or suppliers be liable for lost profits or data, or any special, incidental or consequential damages arising out of or in connection with the Site(s), Nadex's services, the Trading Platform, or this Agreement (however arising, including negligence), and including, without limitation, as a result of any failure or malfunction of any software, hardware, communication technology or other system. Nadex's or any member of the IG Group's liability, their officers, directors, shareholders, employees, service providers and suppliers to the Affiliate or any third party(ies) in any circumstance is limited to the greater of:

- (a) the aggregate of the fees paid by Nadex to Affiliate in the twelve months prior to the act or omission giving rise to liability; or
- (b) US \$2,000.

## **8 No Warranties; Indemnification**

- 8.1 To the fullest extent permitted under applicable law, notwithstanding anything to the contrary, Nadex disclaims all warranties, express or implied, including but not limited to all implied warranties of non-infringement, merchantability and fitness for a particular purpose, with respect to the Program, the Site(s), links in the Site(s), or the Site(s) being accessible or free of errors, viruses or security threats.
- 8.2 The Affiliate agrees to indemnify, defend and hold harmless Nadex and any member of the IG Group, their directors, officers, shareholders, employees, service providers and suppliers from and against any and all liability, claims, costs, expenses, injuries and losses, including reasonable legal fees and costs, arising directly or indirectly in connection with Affiliate's breach of any terms of this Agreement, operations or website or out of any disputes between Affiliate and any other party relating to this Agreement, the Site(s), the Affiliate's activity or to services provided by Nadex or any member of the IG Group. Nadex may deduct such amounts to indemnify Nadex, any member of the IG Group, its directors, officers, shareholders, employees, service providers and suppliers for any claims, arising or resulting from or relating, the matters brought forth in this clause 8.2 from any outstanding Affiliate Fee due to the Affiliate and held by Nadex and/or any other funds whatsoever due to the Affiliate and held by Nadex.

## **9 Independent Investigation**

The Affiliate acknowledges that the Affiliate has read this Agreement and agrees to all its terms and conditions. The Affiliate understands that Nadex may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this Agreement or operate or contract with websites that are similar to or compete with the Affiliate's website. The

Affiliate has independently evaluated the desirability of participating in the Program and is not relying on any representation, guarantee, or statement other than as set forth in this Agreement.

## **10 Termination**

- 10.1 This Agreement will take effect when the Affiliate indicates its acceptance of this Agreement on the Affiliate Registration form and shall continue until terminated in accordance with the terms of this Agreement.
- 10.2 Nadex may terminate this Agreement at any time, with or without cause, by giving the Affiliate seven (7) days' written notice by email (or, in the event that Nadex terminates this Agreement with all of its Affiliates, by posting a notice on the Site(s)), except that if the Affiliate violates any of the terms of this Agreement, in which case, Nadex may, in its sole and absolute discretion, terminate this Agreement with immediate effect. The Affiliate may terminate this Agreement at any time, with or without cause, by giving Nadex seven (7) days' written notice by email.
- 10.3 This Agreement will terminate immediately and without notice if:
- (a) the other Party makes an arrangement with its creditors, cannot pay its debts when they fall due, is declared insolvent or bankrupt or has an administrator or receiver appointed;
  - (b) a petition is filed, a notice is given, a resolution is passed or an order is made for or in connection with the winding up of the other Party;
  - (c) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party;
  - (d) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other Party;
  - (e) the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
  - (f) Affiliate fails to comply with any applicable law or regulation, or breaches any provision of this Agreement Nadex deems to be material.
- 10.4 Upon termination of this Agreement, the Affiliate shall no longer be entitled to receive any Affiliate Fee with respect to any new Introduced Clients, but for the avoidance of doubt, Nadex shall pay in full for all previously (i.e., during the Term) Qualified Introduced Clients who have a Qualified Introduced Open Account before the end of the term.
- 10.5 Upon termination of this Agreement for any reason, the Affiliate will cease use of, and remove from Affiliate's website, all Nadex Marks, Marketing Collateral to the Site(s) within seven (7) days from the notice of termination. Any domain which contains any of Nadex's Marks shall be immediately returned or transferred to Nadex, at the Affiliate's cost, upon termination of this Agreement with Affiliate for whatsoever reason. Nadex may withhold any amounts owed to Affiliate until all Nadex Marks, Marketing Collateral are removed from Affiliate's website, and/or

any domain which contains any of Nadex's Marks is returned or transferred to Nadex. Nadex reserves the right to take legal action against Affiliate, and pursue any and all legal and equitable remedies available to it for the unauthorized use of the Nadex Marks.

- 10.6 Clauses 1, 5, 6, 7, 8, 10, 11 and 12 of this Agreement shall survive termination, and the enforceability of the terms and conditions of this Agreement as they related to acts and omissions during the period before such termination, shall survive termination.

## **11 Privacy**

- 11.1 The Affiliate acknowledges that by participating in the Program, the Affiliate will be providing Nadex with personal information, which Nadex may share with its third party service provider(s) for identification verification purposes, or other authentications or validations Nadex deems necessary or appropriate. Affiliate acknowledges and consents to Nadex processing all such information for the purposes of performing this Agreement and administering the relationship between the Affiliate and Nadex. The Affiliate consents to Nadex's processing and disclosing such information in accordance with Nadex's privacy policy as published on the Nadex website(s), and updated from time to time.

## **12 Miscellaneous**

- 12.1 Nadex and the Affiliate are independent contractors, and nothing in this Agreement creates any partnership, joint venture or agency relationship between them, grants to the Affiliate authority to make any representation on Nadex's behalf, or make public any information regarding Nadex, or prohibits Nadex from operating websites that are similar to or compete with the Affiliate's website.
- 12.2 The Affiliate declares that by accepting this Agreement it consents to Nadex sending, and it receiving, by means of telephone, SMS or email, communications containing newsletters, notifications and any other content of a commercial nature relating to the Site(s) and related services. The Affiliate acknowledges that Nadex does not have to obtain the Affiliate's prior consent (whether written or oral) before sending such communications to the Affiliate, provided that Nadex shall immediately cease to send any such further communications should the Affiliate notify Nadex in writing that the Affiliate no longer wishes to receive such content.
- 12.3 This Agreement comprises the entire agreement between the Affiliate and Nadex, supersedes all prior oral and written agreements pertaining to this Agreement's subject matter, and applies in addition to any other term or condition of the Site(s) (such as Nadex's privacy policy), unless expressly provided otherwise in this Agreement, or agreed between the Parties in writing.
- 12.4 Nadex may modify any of the terms of this Agreement (including without limitation the terms of the Affiliate Fees and any Appendices) at any time(s) and in its sole and absolute discretion, upon posting notice on the Site(s) and/or the Affiliate Portal. The Affiliate's sole remedy if such modification is not acceptable to it, is to terminate this Agreement in accordance with clause 11.
- 12.5 If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any jurisdiction in connection with its performance, such provision shall:

- (a) be deemed deleted to the minimum extent necessary in the relevant jurisdiction (which can include deleting only part of the relevant provision); and
- (b) continue in full force and effect without deletion in jurisdictions where it is not invalid, illegal or unenforceable.

Any deletion of a provision under this clause 12.5 shall not affect the validity and enforceability of the remainder of this Agreement.

- 12.6 Nadex's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.
- 12.7 This Agreement and the Affiliate's obligations may not be assigned by the Affiliate, by operation of law or otherwise. Nadex may assign this Agreement to any party at any time.
- 12.8 This Agreement and any non-contractual obligations arising out of or in connection with it are governed by the laws of the State of Illinois, without reference to conflict of laws principles. Each of the Parties (a) hereby irrevocably consents and agrees that any legal or equitable action or proceeding arising under or in connection with this Agreement shall be brought exclusively in the Federal District Court for the Northern District of Illinois or the Circuit Court in the County of Cook, State of Illinois, and (b) by execution and delivery of this Agreement irrevocably submits to and accepts, with respect to any such action or proceeding for such Party and in respect of such Party's properties and assets, generally and unconditionally, the jurisdiction of the aforesaid courts, and irrevocably waives any and all rights such Party may have to object to such jurisdiction. In any action brought by one of the Parties to enforce or interpret the provisions of this Agreement, the prevailing Party will be entitled to be awarded allowable costs and reasonable attorney's fees.