

By selecting the box entitled “I have read and agreed to the Affiliate Agreement” in the Affiliate application you have agreed to the terms of this Agreement on behalf of the legal entity whose details have been provided on the Affiliate application.

AFFILIATE AGREEMENT

This Agreement is entered into between OANDA Global Markets Ltd, with a registered address of: MCS BVI, Kingston Chambers, PO Box 173, Road Town, Tortola, British Virgin Islands (“**OANDA**”) and the entity whose details have been provided on the Affiliate application (the “**Affiliate**”), as of the date of the Affiliate application.

WHEREAS, OANDA is authorised and regulated by the BVI Financial Services Commission (“**FSC**”) for the conduct of investment business and provides services to customers for online execution of transactions in financial instruments including contracts for difference, spot foreign exchange and other commodities (the “**Services**”).

WHEREAS, the Affiliate has customers to whom it wishes to advertise OANDA’s Services.

The parties hereto have agreed as follows:

1. Introductions

- 1.1 The Affiliate may advertise the Services to potential customers in accordance with the terms of this Agreement by publishing marketing information and links to the OANDA website, thereby enabling OANDA to communicate with such customers. The Affiliate agrees that it shall only enable OANDA to communicate with the Customers in respect of the OANDA Services as set out in this Agreement and shall not otherwise carry on any additional activity or service for Customers relating to the OANDA Services.
- 1.2 OANDA may inform the Affiliate of the criteria for customers to which it wishes to provide the Services from time to time. OANDA may in its sole discretion, without giving any reasons for any such decision, accept or reject or otherwise decline to deal with any Customer and further accepts no obligation to provide the Services to any Customer.
- 1.3 Nothing in this Agreement shall prevent OANDA from accepting introductions from any other broker or affiliate.
- 1.4 For the purposes of this Agreement the definition of Customer does not include any customers that are existing customers of OANDA (or any of its Connected Persons) and who have traded via OANDA (or any of its Connected Persons) in the 6 months prior to the date on which the Affiliate advertised the Services to them, except as may be otherwise agreed with respect to specific customers.
- 1.5 For the purposes of this Agreement OANDA will not treat any resident of the United States of America, Australia, Canada, the United Kingdom, the European Union, Singapore, or Japan as a Customer, or residents of any other country from which the services of the Affiliate under this Agreement are prohibited by any applicable laws or for which OANDA lacks the regulatory permissions or passports it requires to provide the Services.
- 1.6 The Affiliate agrees that each Customer’s data shall become the property of OANDA, and OANDA may contact Customers directly and without restriction (subject to relevant data protection legislation). This data use right will survive the expiry of this Agreement and the Affiliate may not use the Customer’s data for any purpose at any time.

2. Regulation

- 2.1 The Affiliate only carries on business in countries from which customers would generate a payment as detailed in your personal Affiliate portal. Without prejudice to the generality of clause 6 of this Agreement, the Affiliate has advised OANDA, and represents and warrants, that it
- 2.1.1 has all regulatory approvals, permissions, licences and consents it requires, if any, for its performance of this Agreement;
 - 2.1.2 will immediately on request, provide evidence of such authorisation and/or licencing to OANDA or otherwise provide evidence that it does not require any such permissions;
 - 2.1.3 will comply at all times with all applicable laws in relation to this Agreement and shall not take any action (or make any omission) which causes OANDA to breach any applicable laws.

3. No Agency or Partnership

- 3.1 The Affiliate will not hold itself out as an agent, representative or employee of OANDA or as being authorised to bind OANDA in any transaction or investment agreement. Any correspondence issued by the Affiliate will be in the Affiliate's own name and on the Affiliate's own stationary.
- 3.2 The parties are each entering into and will perform this Agreement for their own individual purposes as independent principals. Nothing in this Agreement or its implementation is intended to create or imply the existence of a partnership or joint venture of any form or type or for any purpose whatsoever, a relationship of principal and agent or a relationship of employer and employee between the parties.

4. Fees

- 4.1 Subject to any applicable laws in consideration of the Affiliate providing the services set out in clause 1.1 OANDA will pay the Affiliate the amounts specified in Schedule 1 of this Agreement (the "Fee").
- 4.2 The Fee will be payable on a monthly basis inclusive of all applicable taxes. If any tax (withholding or otherwise) is payable on the Fee, such amount of tax will be for the Affiliate's own account and will not be paid by OANDA.
- 4.3 Fees will be calculated in USD, and will be paid in USD, GBP or Euros depending on the denomination of the Affiliate's nominated bank account for receipt of payments, using OANDA's prevailing month end exchange rate.
- 4.4 OANDA shall advise the Affiliate within 20 days of the last day of the calendar month (excluding a Saturday, a Sunday and bank holidays) of the Fee due and payable for that calendar month via a monthly report, and such amount shall become due and payable to the Affiliate within 30 days of the end of the calendar month to which it applies. If the Affiliate disputes the Fee amount specified in the monthly report the Affiliate shall as soon as possible (and in any event within 30 days of the date of the monthly report), send OANDA written notice of such dispute, otherwise the right to dispute shall be deemed waived and the Affiliate shall have no claims in such regard.
- 4.5 If the total payment due to the Affiliate in respect of any month is less than USD250, the balance will be carried forward to the next month.

- 4.6 OANDA will use reasonable endeavours to track each Customer; however payment of Fees will only apply to Customers to whom there is clear evidence the Affiliate has provided the services in clause 1.1 and in addition such customers have an open, funded and traded account as specified in Schedule 1 of this Agreement. Such evidence may be supported by tracked links provided by OANDA and/or a specific reference from the Customer to the Affiliate.
- 4.7 No Fee will be payable by OANDA to the Affiliate in respect of any Customer if OANDA considers, in its sole discretion:
- 4.7.1 OANDA is unable to accept such Customer as a client for the Services for any reason whatsoever, including as a result of any applicable laws (including money laundering, bribery or sanctions requirements in any jurisdiction)
 - 4.7.2 such Customer was procured by means of fraud, deception, manipulation or any other illegal activity (for example, but not limited to, spam, false advertising, deposits generated by stolen credit cards, manipulation of the service by fake redirects, automated software, robots or other similar multi-optimisation methods) ("**Fraudulent Traffic**");
 - 4.7.3 any such Fee is prohibited under applicable laws;
 - 4.7.4 such customer has abused or acted in bad faith or conducted any abusive trading activity (including, without limitation, where the customer opens and closes trades instantly for the purpose of triggering a Fee under this Agreement).
- 4.8 The Affiliate shall be solely responsible for all costs and expenses incurred by it in connection with the services provided by it under this Agreement.
- 4.9 In the event that the Affiliate is in breach of this Agreement, OANDA shall be entitled (without prejudice to any other remedies that may be available to OANDA in relation to such breach) to withhold payment of part or all of the Fee that would otherwise be due to the Affiliate until such time as the breach has been remedied.
- 4.10 If any Customer is in breach of any of its payment obligations pursuant to its customer agreement with OANDA at any time during the term of this Agreement, OANDA reserves the right to set-off the amount outstanding in relation to the defaulting customer against any Fee due and payable to the Affiliate until such time as the breach has been remedied and is no longer outstanding.
- 4.11 If any amounts of Fee are withheld as contemplated by clauses 4.09 and 4.10 above, the Affiliate agrees that OANDA's obligation to pay to the Affiliate such withheld Fee shall cease in the following circumstances:
- 4.11.1 in the case of clause 4.09, if at any time after a period of one (1) month from the date of the Affiliate's breach, OANDA comes to the reasonable opinion that the breach is incapable of remedy; or
 - 4.11.2 in the case of clause 4.10, if at any time after a period of six (6) months from the date of the Customer's debt arising, OANDA comes to the reasonable opinion that the customer's debt has become unrecoverable.
- 4.12 In the event of any regulatory or legal investigation into the commercial affairs of the Affiliate, OANDA will be entitled at its absolute discretion to either (i) withhold payment of the Fee that would otherwise be due to the Affiliate until such investigation is concluded or (ii) terminate this Agreement

with immediate effect (in which case, for the avoidance of doubt, no further Fee will be paid or become payable after the termination date).

- 4.13 In the event that it becomes unlawful for OANDA to make any payment of Fees to the Affiliate, the Affiliate agrees that its entitlement to receive any further Fee will cease.
- 4.14 The Affiliate agrees that it shall not offer any bonus payments, rebates or commissions or other promotional payments to Customers as a consequence of such Customers opening an account with OANDA.
- 4.15 In the event any dispute arises as to the amount of Fee payable by OANDA to the Affiliate, the dispute shall be referred to OANDA's auditors for settlement and their decision, save in the case of manifest error, shall be final and binding on both parties.

5. Duration and Termination

- 5.1 This Agreement shall come into force on the date hereof and (unless terminated earlier in accordance with its terms) shall continue until terminated by either party at any time by giving to the other party not less than three months' written notice, in which case this Agreement shall terminate at the end of that notice period.
- 5.2 In the event of termination of the Agreement OANDA shall have no further obligation to pay any Fees with effect from the termination date.
- 5.3 This Agreement may be terminated by OANDA immediately by written notice to the Affiliate at any time:
 - 5.3.1 if the Affiliate fails to obtain, or ceases to hold, any licence and/or authorisation required to carry out the activities contemplated by this Agreement;
 - 5.3.2 if the Affiliate breaches applicable laws or becomes subject to any enforcement proceedings or regulatory investigation in any jurisdiction, whether or not related to the services provided by the Affiliate under this Agreement;
 - 5.3.3 if the Affiliate has not provided any promotional services within clause 1.1, or no new clients have resulted from any promotional services within clause 1.1, within 6 months from the date of this Agreement;
 - 5.3.4 in the event of the insolvency, bankruptcy or administration of the Affiliate, or if a resolution is passed or an order is made for the winding up of the Affiliate, or if the Affiliate ceases or threatens to cease to carry on business, or if there is a change of control of the Affiliate to which OANDA reasonably objects (or any analogous event);
 - 5.3.5 if OANDA considers in its sole discretion that the Affiliate has been promoting the Services to Fraudulent Traffic;
 - 5.3.6 in the event of the death of the Affiliate (if the Affiliate is an individual); or
 - 5.3.7 if the Affiliate breaches any representation or warranty given under this Agreement.
- 5.4 If, at any time after six (6) months from the date of this Agreement, the level of Fees payable by OANDA to the Affiliate during any three (3) month period is less than an average of USD 500 per month, then OANDA may terminate this Agreement by giving one (1) month's written notice to the Affiliate.

5.5 Upon termination of this Agreement, the Affiliate shall not instruct or encourage any Customer to close their account with OANDA, withdraw funds or transfer their account to a competitor.

6. Representations and Undertakings

6.1 By executing this Agreement, the Affiliate hereby confirms, represents and warrants that:

6.1.1 if it is a company, it is a company duly organised and validly existing under the laws of the country of incorporation;

6.1.2 it has the power to enter into and perform its obligations under this Agreement and has taken all necessary action to authorise the execution, delivery and performance of it;

6.1.3 it shall not do anything or omit to do anything which would or may constitute a breach of any laws or regulations applicable to the Affiliate in any jurisdiction (including all applicable rules and regulations relating to money laundering, terrorist financing, anti-bribery and anti-corruption) (the “**Regulations**”), or which would or may result in OANDA breaching any such Regulations, and by entering into this Agreement it does not breach or violate any applicable laws, exchange rules or other contractual agreements or obligations;

6.1.4 it shall promptly notify OANDA of any investigations or proceedings that are initiated against it including any regulatory investigation of a regulatory authority in any jurisdiction and whether or not related to the services it provides under this Agreement;

6.1.5 if required by any Regulations, it has disclosed its practices for receiving Fees to Customers and the Customers have consented in writing to the Affiliate’s receipt of such Fees;

6.1.6 if required by any Regulations, it shall periodically provide its Customers with a statement describing the amount of Fees that it has received in relation to each such Customer’s accounts;

6.1.7 it is familiar with the Regulations and operates its business in compliance therewith;

6.1.8 it shall comply with any request(s) from any regulatory authority which OANDA (or its Connected Persons) are subject to, whether such request comes directly from the relevant regulatory authority or from OANDA;

6.1.9 it shall disclose to OANDA any information which it is aware of that may affect the relationship OANDA may or does have with any Customer;

6.1.10 it shall not issue any advertisement or distribute any promotional material, whether on the internet or otherwise, about OANDA except OANDA’s own promotional material without OANDA’s express written consent. Any advertisement that, directly or indirectly, promotes the services of OANDA will be fair and not misleading and will include the appropriate risk warning;

6.1.11 it shall only advertise OANDA’s Services to potential customers of good reputation and good standing, and whose assets are, to the best of its knowledge, not of illegal origin;

6.1.12 it shall not use high pressure sales tactics or similar techniques with respect to Customers, nor solicit any Customers to place trades; and

6.1.13 it shall not accept any Customer funds or trade on behalf of the Customer.

- 6.2 In the event of termination of this Agreement for any reason, the Affiliate shall promptly destroy all of the information and materials supplied by OANDA in respect of or consequent upon entering into this Agreement, or any material used by the Affiliate to promote OANDA, in any form, including but not limited to banners and text links (the “Marketing Materials”), or any parts thereof, that may then be in its possession in any form and in any medium and remove any Marketing Materials from any website operated by the Affiliate or any third party website in which the Marketing Materials may have been published or used and deactivate any links maintained by the Affiliate to the OANDA website. For the avoidance of doubt, any permissions granted under this Agreement terminate on the termination date.
- 6.3 The Affiliate shall not promote OANDA or use the Marketing Materials on any website engaged, directly or indirectly, in conduct that OANDA, at its sole discretion, deems to be illegal, improper, unfair or otherwise adverse to the operation or reputation to OANDA, including without limitation, directly or indirectly:
- 6.3.1 in the operation of an illegal business, site or subscription email list;
 - 6.3.2 in an illegal activity or offering any illegal good or service;
 - 6.3.3 containing or promoting content that is libelous, defamatory, obscene, abusive, violent, bigoted, hate-oriented, illegal, pornographic or engaged in gambling or link to a website that does so;
 - 6.3.4 in indiscriminate or unsolicited commercial advertising emails;
 - 6.3.5 involving placing links to the OANDA website in spam or unsolicited promotions, banner networks, counters, guest books, IRC channels or through similar Internet resources; or
 - 6.3.6 causing or enabling any transactions to be made through Fraudulent Traffic.
- 6.4 The Affiliate shall not actively target any marketing activities relating to OANDA at persons under the age of 18.
- 6.5 The Affiliate shall not market directly or indirectly to potential customers on any website which OANDA actively promotes its services and products and/or in any manner which OANDA deems in its sole discretion results in the Affiliate competing with OANDA.
- 6.6 The Affiliate shall provide to OANDA immediately upon request copies of all materials issued to customers in connection with this Agreement.
- 6.7 Without prejudice to the foregoing, the Affiliate shall provide to OANDA such information as OANDA (or any regulator of OANDA) may request from time to time, including without limitation information concerning the financial status of the Affiliate and the marketing activities conducted by the Affiliate in respect of OANDA.
- 7. Data Protection**
- 7.1 Each party warrants and undertakes to the other that it will comply in full with all of its obligations under the United Kingdom Data Protection Act 2018 and all other applicable data protection legislation, whether as a data controller, a data processor or otherwise.

8. Indemnity and Limitation of Liability

8.1 The Affiliate shall indemnify and hold OANDA and any of its Connected Persons harmless from all costs (including legal fees), liabilities and claims arising from:

8.1.1 any breach by the Affiliate of the terms of this Agreement; and/or

8.1.2 the marketing activities conducted by the Affiliate in respect of OANDA, to the extent such activities result in any breach of Regulations by OANDA.

8.2 For the avoidance of doubt, the Affiliate shall indemnify OANDA for any and all direct or indirect losses, costs, fines or penalties howsoever arising which OANDA incurs as a result of any breach by the Affiliate of clause 6.1.10.

8.3 In no event shall OANDA or its parent corporation or other related entities, 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 Services 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.

8.4 In aggregate, the liability of OANDA or its parent corporation or other related entities, their officers, directors, shareholders, employees, service providers and suppliers, to the Affiliate or any third parties in any circumstance is limited to the greater of:

(a) the aggregate of the fees paid by OANDA to Affiliate in the twelve months prior to the act or omission giving rise to liability; or

(b) US\$ 2,000.

9. Non-assignment and Sub-contracting

9.1 Neither party may assign any of its rights and obligations under this Agreement without the prior written consent of the other party.

9.2 Without prejudice to clause 9.1, the Affiliate shall not sub-contract any of its obligations under this Agreement without the prior written consent of OANDA. For the avoidance of doubt, Customers may only be introduced to OANDA for the purposes of this Agreement by the Affiliate, and not by any other affiliates or brokers (being Connected Persons of the Affiliate or otherwise).

10. Miscellaneous

10.1 Any provision of this Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Agreement.

10.2 Any notices or other information shall be sent or served by either party to the other at the addresses stated in this Agreement unless either party has informed the other in writing to the contrary. All notices shall be in writing and if sent by prepaid first class mail, shall be deemed to be received two business days from dispatch.

10.3 Each party hereby agrees that the terms of this Agreement and any information that it may receive from the other party, which information is not otherwise obtainable in the public domain, will be maintained by such receiving party in the strictest confidence and not released to any third party without the consent of the sending party; provided, however, that the receiving party shall be

permitted to provide such information to any governmental or regulatory authority or other party that it is required by law to provide such information to.

- 10.4 For the purposes of this Agreement, “Connected Person” means when used with reference to a party hereto, any entity that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with a party hereto.
- 10.5 The Agreement is between OANDA and Affiliate. Except as expressly provided elsewhere in the Agreement, nobody else shall have any rights to enforce any of its terms.
- 10.6 This Agreement shall be binding upon and endure to the benefit of the parties and their respective successors and permitted assigns.
- 10.7 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts will together constitute one agreement.
- 10.8 This Agreement constitutes the entire agreement and understanding between the Affiliate and OANDA. This Agreement supersedes all previous agreements, representations or arrangements whether made orally or in writing.
- 10.9 OANDA reserves the right to amend this Agreement, including the terms of Schedule 1, at any time upon the provision of thirty (30) days’ written notice to the Affiliate. In the event that the Affiliate does not accept the amended terms then the Affiliate must provide written notice of termination to OANDA, and in such circumstances on the intended effective date of variation this Agreement will terminate. If such notice is not received by OANDA the Affiliate will be deemed to have accepted the amendment. Any amended agreement will supersede any previous agreement between the parties on the same subject matter.

11. Intellectual Property

- 11.1 OANDA grants the Affiliate a limited, revocable, non-exclusive, non-transferable, non-assignable, non-sub-licensable, royalty-free licence for the term of this Agreement to use the OANDA trademarks for the purposes of this Agreement.
- 11.2 All copyright, trademark, trade secret and other intellectual property rights in the Marketing Materials shall remain at all times the sole and exclusive property of OANDA and the Affiliate shall have no right or interest in the Marketing Materials.

12. Governing Law

- 12.1 This Agreement shall be governed by the laws of the British Virgin Islands and the parties hereto submit to the exclusive jurisdiction of the English courts in respect of this Agreement.

Schedule 1

Fees to be paid and associated qualifying criteria are detailed in your personal Affiliate portal.

Fees shall be paid for each Customer in respect of the Services subject to the terms of this Agreement and in accordance with the structure detailed in your personal Affiliate portal. If any Customer opens more than one account, no additional Fees will be payable in respect of any such additional accounts. Where two or more Customers open a single account in joint names, only one set of Fees shall be payable for such customers.