

## Marketing Partner Agreement

This Marketing Partner Agreement (the “**Agreement**”) is entered into by and between one or more OANDA entities (an “**OANDA Entity**”) listed on **Appendix no. 1** (collectively, “**OANDA**”) and the entity whose details have been provided on the Marketing Partner application (the “**Partner**”), each as set forth on the signature page below (OANDA and Partner are hereinafter jointly referred to as the **Parties** and each separately as a **Party**), as of the date set forth on the signature page below (the “**Effective Date**”).

WHEREAS, OANDA provides services to customers for online execution of transactions in financial instruments (the “**OANDA Services**”);

WHEREAS, each OANDA Entity may be subject to regulatory and licensing requirements in order to offer the OANDA Services and, accordingly, the scope of OANDA Services offered by each OANDA Entity may be different;

NOW, THEREFORE, the Parties have agreed, subject to the derogations set forth on **Appendix no. 2**, as applicable:

### 1. Introductions

- 1.1 The Partner (which may be referred to as an affiliate in some jurisdictions) may (i) advertise the OANDA Services to potential customers (“**Potential Customers**”) in accordance with the terms of this Agreement by publishing pre-approved by OANDA marketing information and links to the OANDA website; and (ii) subject to OANDA’s prior written consent, provide additional services directly to any Potential Customer (collectively, the “**Partner Services**”). For purposes of this Section, “**Hyperlink**” means a unique identification code supported by tracked links provided by OANDA that is assigned to a Partner’s account resulting in all referred traffic and earnings being tracked and linked to the Partner for the purpose of calculating the Fee pursuant to the terms of this Agreement. “**OANDA Customer**” means a customer which has been approved and onboarded (using a Hyperlink) by OANDA. Further, for purposes of this Agreement the definition of Approved OANDA Customer does not include any customers that are OANDA Customers (or any of its Connected Persons) as of the Effective Date and who have traded via OANDA (or any of its Connected Persons) in the 6 months prior to the Effective Date, except as may be otherwise agreed by the Parties. An OANDA Customer who: (a) has deposited cash into their OANDA account, (b) has executed at least one transaction, (c) is not a Partner or a Partner’s employee, and (d) has never had OANDA as their personal data controller, will be referred to herein as an “**Approved OANDA**”

**Customer**” and, together with Potential Customers, as a **“Target Customer”**.

- 1.2 OANDA will inform the Partner of the criteria for Target Customers to whom such Partner may provide the Partner 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 Potential Customer and has no obligation to provide the OANDA Services to any Potential Customer. OANDA will not onboard any Potential Customer who is a resident of a country from which the services of the Partner under this Agreement are prohibited by Applicable Law or for which OANDA lacks the regulatory permissions required to provide the OANDA Services, each as determined by OANDA in its sole discretion.
- 1.3 For purposes of this Agreement **"Applicable Law"** means all laws, regulations, guidelines, statements and best practices applicable to the Partner, OANDA, Potential Customers, OANDA Customers and Approved OANDA Customers, as applicable, including but not limited to those relating to trading in financial instruments, anti-money laundering and terrorist financing, anti-fraud, consumer protection, protection of personal data, anti-spam, areas of business activities, location of offices, citizenship and residence.
- 1.4 Nothing in this Agreement shall prevent OANDA from accepting introductions from any other marketing partner.
- 1.5 The Partner agrees, subject to relevant Applicable Law, that each Target Customer's data shall become the property of OANDA, and OANDA may contact Target Customers directly and without restriction (subject to Applicable Law). This data use right will survive the expiry of this Agreement.
- 1.6 The Partner shall not approach any Target Customers or distribute any Marketing Materials except as specifically permitted by this Agreement.
- 1.7 The Partner's activities under this Agreement shall not be directed to citizens or residents of Japan, Belgium, Netherlands or France. OANDA may grant the Partner additional restrictions on the location or nationality of Potential Customers at any time during the term of this Agreement.
- 1.8 The Partner agrees to provide true, accurate and complete information to OANDA in its registration form and at all times.

- 1.9 OANDA may, in its sole and absolute discretion, either accept or reject any application for any reason and is under no obligation to disclose any such reasons.
- 1.10 OANDA shall deliver any forms and/or documents as required for onboarding directly to Potential Customers.
- 1.11 The Partner:
  - 1.11.1 shall use its best efforts to actively and effectively advertise, market and promote the relevant OANDA Services subject to and in accordance with Applicable Law and the terms of the Agreement, in order to maximize the benefit to the Parties;
  - 1.11.2 shall direct Potential Customers to OANDA's website (as determined and instructed by OANDA from time to time) in accordance with the terms and conditions of the Agreement;
  - 1.11.3 may advertise the OANDA Services to potential customers by publishing pre-approved by OANDA Marketing Materials and links to OANDA's website, thereby enabling OANDA to communicate with Potential Customers once registered;
  - 1.11.4 shall not use any Confidential Information to market or promote any entity, individual, or website other than OANDA;
  - 1.11.5 shall not promote OANDA in any manner which results in the Partner competing with any OANDA Entity or any of its Connected Persons in relation to the promotion of OANDA, unless otherwise approved by OANDA (including OANDA's name or any material from OANDA);
  - 1.11.6 shall be responsible for content of all material appearing on any website operated by the Partner and for the development, operation, and updating and maintenance of such website;
  - 1.11.7 shall not enter into any obligation on behalf of OANDA or make any declaration on behalf of OANDA, including declarations of will;
  - 1.11.8 shall not accept any payments in consideration of the OANDA Services;

1.11.9 shall not participate in the onboarding of Potential Customers to OANDA or complete any documentation in connection therewith on such Potential Customer's behalf; and

1.11.10 shall not provide, directly or indirectly, any investment advice to any Potential Customer.

## **2. Regulation and Registration**

2.1 The Partner represents and warrants that it carries on business only in countries from which Customers would generate a payment as detailed in an marketing partner portal (<https://go.oanda.com/login/>) operated by OANDA for the purpose of the management of its marketing partner relationships and to which the Partner will be granted access (the "**Partner Portal**"). Without prejudice to the generality of Section 6 of this Agreement, the Partner has advised OANDA, and represents and warrants, that it

2.1.1 has, and will maintain throughout the term of this Agreement, all legal and regulatory approvals, permissions, licenses and consents required, if any, for it to comply with its obligations under 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; and

2.1.3 will comply at all times with Applicable Law and shall not take any action (or make any omission) which has the effect of causing OANDA to breach any Applicable Law.

2.2 The Partner shall educate, apprise and constantly update itself on Applicable Law and ensure compliance with the same when carrying out its obligations under this Agreement. The Partner acknowledges that it is its sole duty and responsibility to be so acquainted, apprised and updated with all Applicable Law and, where necessary, to engage its own professional advisers to advise on its legal and regulatory obligations to carry out its obligations under this Agreement.

## **3. No Agency or Partnership**

3.1 The Partner will not hold itself out as an agent, tied agent, representative or employee of OANDA or as being authorized to bind OANDA in any

transaction or agreement. Any correspondence issued by the Partner will be in the Partner's own name and on the Partner's own stationary.

- 3.2 Each Party is entering into and will perform its obligations under this Agreement for its own individual account 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 Applicable Law, in consideration of the Partner providing the Partner Services OANDA will pay the Partner the amounts specified in **Appendix no. 4** (the "Fee").
- 4.2 The Fee will be payable by OANDA to a verified bank account in the Partner's name 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 Partner's account and will not be paid by OANDA. In the event OANDA is legally obliged to deduct or withhold any taxes, public burden or other amount from the Fee, then the Fee shall be decreased so that after making all required deductions and withholdings, the Partner shall receive an amount reduced by such deductions or withholdings and the Partner shall not be entitled to reclaim such withheld or deducted amounts from OANDA.
- 4.3 Fees will be calculated in USD, and will be paid in AUD, USD, GBP or EUR depending on the denomination of the Partner's identified bank account for receipt of payments, using OANDA's prevailing month-end exchange rate. The Partner shall be responsible for the payment of any and all bank charges in respect of the payment of the Fee. The Fee shall be converted at the exchange reference rate of the European Central Bank, using the average rate from the month in which commissions were generated.
- 4.4 OANDA shall advise the Partner within 20 days of the last day of the calendar month (excluding a Saturday, a Sunday and bank holidays in the jurisdiction of the relevant OANDA Entity) of the Fee due and payable in respect of that calendar month via the Partner Portal, and such amount shall become due and payable to the Partner within 30 days of the end of such calendar month. If the Partner disputes the Fee amount specified in the monthly report the Partner 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 Partner shall have no claims in such regard. OANDA reserves the right, in its sole and absolute discretion, to at any time change, modify, add or remove any qualifying criteria on terms applicable to Fee payments, including without limitation, setting any minimum deposits or thresholds or requirement(s) for receiving any Fee under this Agreement.

- 4.5 If the total payment due to the Partner in respect of any calendar month is less than USD 250 (or the equivalent of this amount in another currency), the balance will be carried forward to the following calendar month.
- 4.6 OANDA will use reasonable endeavors to track each Potential Customer or Approved OANDA Customer, as applicable; however, payment of Fees will only apply to Target Customers to whom there is clear evidence the Partner has provided the Partner Services and that the conditions indicated in **Appendix no. 4** have been met.
- 4.7 The Partner shall only receive the Fee for a Target Customer introduced to OANDA via websites or communication channels previously disclosed to OANDA.
- 4.8 No Fee will be payable by OANDA to the Partner in respect of any Potential Customer if OANDA considers, in its sole discretion:
  - 4.8.1 the Partner fails to provide any required information in respect of, OANDA's know-your customer, anti-money laundering or other internal checks, or any of the information provided by the Partner is found to be incomplete, inaccurate or misleading;
  - 4.8.2 OANDA is unable to accept such Potential Customer as a client for the OANDA Services for any reason whatsoever, including as a result of Applicable Law;
  - 4.8.3 such Potential Customer was procured by means of fraud, deception, manipulation or any other illegal activity (including 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**");

- 4.8.4 any such Fee is prohibited under Applicable Law or the Partner is in breach of its obligations under this Agreement or of Applicable Law;
  - 4.8.5 a Target Customer has abused or acted in bad faith or conducted any abusive trading activity (including, without limitation, where the Target Customer opens and closes trades instantly for the purpose of triggering a Fee under this Agreement); or
  - 4.8.6 a Target Customer acts contrary to the contractual documentation linking such Target Customer with OANDA.
- 4.9 The Partner shall be solely responsible for all risks, costs and expenses incurred by it in connection with the Partner Services provided by it under this Agreement.
- 4.10 In the event that the Partner is in breach of its obligations under 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 Partner until such time as the breach has been remedied.
- 4.11 If any Target 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 Target Customer against any Fee due and payable to the Partner until such time as the breach has been remedied and is no longer outstanding.
- 4.12 If any amounts of Fee are withheld as contemplated by Section 4.10 or 4.11 the Partner agrees that OANDA's obligation to pay to the Partner such withheld Fee shall be extinguished if, in OANDA's sole determination, the Partner's or Target Customer's breach is incapable of remedy.
- 4.13 In the event of any regulatory or legal investigation into the commercial affairs of the Partner, OANDA will be entitled in its absolute discretion to either (i) withhold payment of the Fee that would otherwise be due to the Partner 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).

- 4.14 In the event that it becomes unlawful for OANDA to make any payment of Fees to the Partner, the Partner agrees that it shall not be entitled to receive any further Fee.
- 4.15 The Partner agrees that it shall not offer any bonus payments, rebates or commissions or other promotional payments to Potential Customers in consideration of such Potential Customers opening an account with OANDA.
- 4.16 In the event that any dispute arises as to the amount of Fee payable by OANDA to the Partner, the dispute shall be referred to OANDA's auditors or an auditor selected by both Parties jointly (provided that in this case the costs of the auditor are borne by the Partner) for settlement. The decision of the auditor, save in the case of manifest error, shall be final and binding on both Parties.
- 4.17 The Partner shall be solely responsible for the accuracy of payment details provided to OANDA. The Partner is obliged to inform OANDA of any change of payment details and is solely responsible for any error in payment details provided to OANDA.
- 4.18 The Parties allow the possibility of mutual settlements through set-off arrangements to the extent permitted by Applicable Law.

## 5. Duration and Termination

- 5.1 This Agreement shall come into force on the Effective Date 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 one month's notice (by post or e-mail), in which case this Agreement shall terminate at the end of that notice period (the "**Termination Date**").
- 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 Partner at any time:
  - 5.3.1 if the Partner fails to obtain, or ceases to hold, any license and/or authorisation required to carry out the activities contemplated by this Agreement;
  - 5.3.2 If the Partner breaches any provision of this Agreement deemed by OANDA to be material;



- 5.3.3 if the Partner breaches any Applicable Law or becomes subject to any enforcement proceedings or regulatory investigation in any jurisdiction, whether or not related to the Partner Services;
  - 5.3.4 if the Partner has not provided any promotional services pursuant to Section 1.1, or no new Target Customers have been onboarded by OANDA as a result of such promotional services, within 3 months from the date of this Agreement;
  - 5.3.5 in the event of the insolvency, bankruptcy or administration of the Partner, or if a resolution is passed or an order is made for the winding up of the Partner, or if the Partner ceases or threatens to cease to carry on business, or if there is a change of control of the Partner to which OANDA reasonably objects (or any analogous event);
  - 5.3.6 if OANDA considers in its sole discretion that the Partner has been providing the Partner Services through Fraudulent Traffic;
  - 5.3.7 in the event of the death of the Partner (if the Partner is an individual);
  - 5.3.8 if the Partner breaches any representation or warranty given under this Agreement; or
  - 5.3.9 in accordance with Section 4.13.
- 5.4 If, at any time following the six (6) month anniversary of from the Effective Date, the Fees payable by OANDA to the Partner during any three (3) month period is less than an average of USD 500 per month, then OANDA may pay the amount of Fees owed and terminate this Agreement by giving one (1) month's written notice to the Partner.
- 5.5 Upon termination of this Agreement:
- 5.5.1 the Partner shall not instruct or encourage any OANDA Customer to close their account with OANDA, withdraw funds or transfer their account to a competitor;
  - 5.5.2 all rights and licenses granted to the Partner under this Agreement shall immediately terminate;

- 5.5.3 the Partner releases OANDA from all obligations and liabilities occurring or arising after the Termination Date; and
  - 5.5.4 the Partner shall cease all use of, and remove from the Partner's website, all Marketing Materials and intellectual property within seven (7) days from the Termination Date. Any Marketing Material, domain that contains OANDA trademarks or other intellectual property shall be immediately returned or transferred to OANDA on the Termination Date.
- 5.6 Notwithstanding the termination of this Agreement for any reason, this Section 5, and Sections 7, 8, and 11 hereof, shall survive such termination and shall remain in full force and effect.

## **6. Representations and Undertakings**

- 6.1 By executing this Agreement, the Partner hereby confirms, represents and warrants that:
- 6.1.1 In case of corporate entity - it is a company duly organized and validly existing under the laws of its country of incorporation;
  - 6.1.2 it has the full capacity and power to enter into and perform its obligations under this Agreement, including any requisite authorizations applicable to it in order to offer the Partner Services, and has taken all necessary action to authorize the execution, delivery and performance of the Agreement;
  - 6.1.3 by entering into this Agreement, the Partner will not breach any current or future obligation that the Partner have, or may have, with any third party;
  - 6.1.4 all information it has provided, and will provide, to OANDA is true, accurate, complete and not misleading, and it shall notify OANDA if any information in its application form or otherwise provided to OANDA changes or is false, inaccurate or misleading in any respect and shall update such information without undue delay (and in any case no later than 7 days from the date of the change);
  - 6.1.5 the Partner and its shareholders, Board of Directors and key employees have not been subject to any legal or regulatory investigations or been subject to any sanctions or fines or other penalties for breaches of Applicable Law;

- 6.1.6 the Partner is not bankrupt or subject to any administrative, insolvency order, tax or other proceedings;
- 6.1.7 the Partner has not been convicted for any criminal activity or been subject to any sanctions, regulatory or other investigations, for unlawful or unethical conduct or breach of Applicable Law other than minor traffic offenses (not related to the performance of this Agreement);
- 6.1.8 it shall obtain OANDA's prior written consent for all websites and communication channels from which it is referring Potential Customers to OANDA's website and shall regularly update such information;
- 6.1.9 it shall comply with Applicable Law in connection with the promotion and referrals to OANDA's websites and use of the Marketing Materials in accordance with the terms of this Agreement;
- 6.1.10 it shall not do anything or fail to do anything which would or may constitute a breach of Applicable Law;
- 6.1.11 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 Partner Services;
- 6.1.12 if required by Applicable Law, it has disclosed its practices for receiving Fees to Target Customers and such Target Customers have consented in writing to the Partner receipt of such Fees;
- 6.1.13 if required by Applicable Law, it shall periodically provide Target Customers with a statement describing the amount of Fees that it has received in relation to each such Target Customer's accounts;
- 6.1.14 it is familiar with Applicable Law and operates its business in compliance therewith;
- 6.1.15 it shall comply with any request(s) from any regulatory authority to which OANDA (or its Connected Persons) are subject, whether such request comes directly from the relevant regulatory authority or from OANDA;

- 6.1.16 it shall disclose to OANDA any information of which it is aware that may affect the relationship OANDA may or does have with any Target Customer;
- 6.1.17 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 prior written consent, and any advertisement that, directly or indirectly, promotes the OANDA Services will be fair and not misleading (clearly identifying OANDA) and will include the appropriate risk warning (where required by Applicable Law);
- 6.1.18 it shall only advertise the OANDA Services to Potential Customers of good reputation and good standing, and whose assets are, to the best of the Partner's knowledge, not of illegal origin;
- 6.1.19 it shall not contact Potential Customers without a valid legal basis for contact and shall conduct marketing activities in accordance with Applicable Law;
- 6.1.20 it shall provide a manner for Potential Customers to unsubscribe to the Partner Services, allowing them to opt out of receiving communications from the Partner in accordance with Applicable Law;
- 6.1.21 it shall not use high pressure sales tactics or similar techniques with respect to Target Customers, nor solicit any Target Customers to place trades;
- 6.1.22 it shall not accept any funds from Target Customers or trade on their behalf;
- 6.1.23 it shall not support Target Customers with any technical or other matters associated with the Target Customers' trading with OANDA;
- 6.1.24 it shall not use malware, spyware techniques, peer-to-peer distribution methods and paid to clicks networks, or doorway pages opening the OANDA website, or use any other aggressive advertising or marketing methods in any of its dealings relating to the Agreement;

6.1.25 it shall not provide or offer to Target Customers any investment, tax, legal or any other advice, opinion or information (whether oral, written, and regardless of the method of its delivery); and

6.1.26 it shall not represent to any Target Customer or otherwise create an impression that such Target Customer is guaranteed any profits by OANDA.

6.2 In the event of termination of this Agreement for any reason, the Partner shall promptly destroy all of the information and materials supplied by OANDA in respect of this Agreement, or any material used by the Partner to promote OANDA delivered or accepted by OANDA, in any form, including but not limited to banners, graphics, images, artwork or text links and any similar or derived form (the "**Marketing Materials**"), or any parts thereof, that may then be in its possession in any form and in any medium, and the Partner shall remove any Marketing Materials from any website operated by the Partner or any third party website on which the Marketing Materials may have been published or used and shall deactivate any links maintained by the Partner to the OANDA website. For the avoidance of doubt, any permissions granted under this Agreement shall have no force or effect as of the Termination Date.

6.3 The Partner shall not promote OANDA or use the Marketing Materials on any website engaged, directly or indirectly, in conduct that OANDA, in its sole discretion, deems to be illegal, improper, unfair or otherwise adverse to the operation or reputation of OANDA, including without limitation, directly or indirectly:

6.3.1 in the operation of an illegal business;

6.3.2 in an illegal activity or offering of 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 that links 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, internet relay chat channels or through similar Internet resources; or

6.3.6 causing or enabling any transactions to be executed through Fraudulent Traffic.

- 6.4 The Partner shall not actively target any marketing activities relating to OANDA to persons under the age of 18.
- 6.5 The Partner shall not use any Confidential Information to market or promote any entity, individual, or website other than OANDA.
- 6.6 The Partner shall not utilize any third party's intellectual property (included, but not limited to, trademarks) without proper authorization.
- 6.7 The Partner shall not market directly or indirectly to Target Customers on any website through which OANDA actively promotes the OANDA Services and/or in any manner which OANDA deems in its sole discretion competes with OANDA.
- 6.8 The Partner shall provide to OANDA immediately upon request copies of all materials issued to Target Customers in connection with this Agreement.
- 6.9 Without prejudice to the foregoing, the Partner 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 Partner and the marketing activities conducted by the Partner pursuant to this Agreement.
- 6.10 The Partner shall not offer any Target Customers, whether directly or indirectly, any kind of incentive or inducement which would be inconsistent with the Applicable Law.
- 6.11 The Partner shall not utilize the OANDA website address, legal name (including any variation thereof including any misspelling, modification, or derivative thereof), or register any domain names, keywords, search terms or other identifiers for use in any search engine, portal, sponsored advertising service or other search or referral service that incorporate such terms or any other intellectual property owned by any OANDA Entity. For the avoidance of doubt, any marketing activity regarding OANDA requires the appropriate prior consent from OANDA as per this Agreement.
- 6.12 The Partner shall not send any solicited or unsolicited marketing communications relating to OANDA via SMS, WhatsApp, Influencers, e-mail, pop-over, pop-under or any similar channel without the prior written consent of OANDA and shall not engage in indiscriminate or unsolicited

commercial advertising emails and SMS referring to the marketing partner program in breach of Applicable Law.

- 6.13 The Partner is responsible for notifying OANDA of any malfunctions of the Hyperlink or other problems with its participation in the marketing partner program. The Partner shall not modify or change the Hyperlink. For purposes of determining the Fee only a Hyperlink generated by OANDA will be tracked.
- 6.14 To the extent permitted by Applicable Law, OANDA provides no warranty and makes no representations that the OANDA website, Hyperlink and Marketing Materials are accessible or free of errors, viruses or security threats.
- 6.15 The Partner undertakes that its marketing activity and any content to be posted or published on the Partner's websites shall not be directed toward minors or any other person who is not part of OANDA stated target market, and shall not engage in any other practices which may affect adversely the credibility or reputation of OANDA and the OANDA Services, including without limitation promoting sexually explicit materials, violence, discrimination based on race, sex, religion, nationality, disability, sexual orientation or age and/or any illegal activities or otherwise objectionable content, include material that is in breach of or infringes any intellectual property rights of any third party (including any material copied from third parties without their permission) or including any false, misleading or disparaging representations or statements.
- 6.16 There must be no changes made to the pre-approved Marketing Materials. The Partner shall submit to OANDA for authorization all websites and information channels that the Partner intends to use pursuant to this Agreement. The Partner shall disseminate Marketing Materials using websites and information channels previously approved by OANDA.
- 6.17 The Partner grants OANDA an unlimited right to audit the Partner with regard to the performance of its obligations under the Agreement with seven (7) days advance notice. The costs of any such audit shall be borne by OANDA. OANDA may inform the Partner of any changes to the Partner websites that Partner should make to ensure that the Partner maintains compliance with this Agreement. Failure by the Partner to make the requested changes in accordance with OANDA's request within a reasonable time (no longer than 14 calendar days) constitutes a

material breach of this Agreement and will allow OANDA to terminate this Agreement with immediate effect.

## 7. Data Protection & Confidentiality

- 7.1 Each Party warrants and undertakes to the other that it will comply in full with the terms and conditions set out in the Data Protection Addendum set out in **Appendix no. 3** and Applicable Law, whether as a data controller, a data processor or otherwise.
- 7.2 Where the Partner processes personal data (as defined in Applicable Law) on behalf of OANDA or Target Customers, then the Partner shall adopt and maintain appropriate security measures for processing data.
- 7.3 The Partner shall not do anything that will cause OANDA to be in breach of any provision or requirement under Applicable Law.
- 7.4 The Partner shall indemnify OANDA from and against all losses, damages, costs, liabilities and expenses (including legal expenses) arising out of or in connection with the Partner's breach of this Section 7.
- 7.5 The Partner consents to OANDA sending Partner communications, notifications and other content relating to the marketing partner program, whether by e-mail, post, telephone, SMS or other means, and the Partner agrees to be bound by the terms of OANDA's privacy documents as set out on OANDA's website.
- 7.7 The Partner agrees that the data of each Target Customer shall become the property of OANDA, and OANDA may contact Target Customers directly and without restriction (subject to Applicable Law).
- 7.8 The Parties agree that OANDA shall not be obliged to provide the Partner with data constituting professional secrets nor the personal data of Target Customers. OANDA shall provide the Partner only with such anonymised data which in OANDA's sole and absolute discretion enables the Partner to compute the Fees due.
- 7.9 The Partner may obtain and process personal data as part of its activities, whether relating to its obligations under this Agreement or otherwise. In this case, the Partner is an independent personal data controller obliged to act in accordance with Applicable Law.
- 7.10 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 Applicable Law to provide.

- 7.11 The Partner (including its directors, officers, employees, authorized representatives and advisors) agrees that it shall not disclose, directly or indirectly, in whole or in part, to any other person any Confidential Information received from OANDA. As used herein, “**Confidential Information**” shall mean all information or data received by the Partner from OANDA pursuant to this Agreement (including, without limitation, the terms and conditions of this Agreement), including, but not limited to, information about OANDA’s operations, processes, know-how, plans, products, technology, intellectual property, markets, customers, suppliers, partners, or finances, which is not: (i) in the public domain (other than as a result of a disclosure directly or indirectly by OANDA); (ii) otherwise already known by the Partner; or (iii) independently developed by the Partner during the term hereof without reliance upon any Confidential Information. In the event of unauthorized disclosure of Confidential Information by the Partner, the Partner will be obliged to pay OANDA a contractual penalty of USD 2,000 for each case of breach. The payment of the contractual penalty does not exclude the possibility of claiming liability in the amount exceeding the amount of the contractual penalty. The obligation to protect Confidential Information shall continue for a period of five (5) years after the Termination Date.
- 7.12 The Partner will not disclose Confidential Information except as required by Applicable Law; provided that in the case of legally-required disclosure the Partner shall (i) to the extent permitted by Applicable Law promptly notify OANDA of such required disclosure, (ii) reasonably cooperate with OANDA to seek confidential treatment of any Confidential Information that it is required to disclose and (iii) only disclose such portion of the Confidential Information that it is legally required to disclose.
- 7.13 Upon the termination of this Agreement, or at any time upon a request by OANDA, the Partner shall promptly (no later than within 7 days) return all Confidential Information, or shall promptly destroy any materials containing such Confidential Information (and any copies, extracts, and summaries thereof) and shall provide OANDA with confirmation of such return or destruction upon request. Notwithstanding the foregoing, the Partner shall not be required to destroy any automated archival backup

of such Confidential Information to the extent required by the Applicable Law.

## **8. Indemnity and Limitation of Liability**

- 8.1 The Partner shall indemnify and hold OANDA and its Connected Persons harmless from all costs (including legal fees), liabilities and claims arising from:
  - 8.1.1 any breach by the Partner of the terms of this Agreement;
  - 8.1.2 the Partner's misuse of the Marketing Materials;
  - 8.1.3 any claim related to the Partner's website, operations or services;  
and/or
  - 8.1.4 the Partner Services to the extent such activities result in any breach of Applicable Law.
- 8.2 For the avoidance of doubt, the Partner shall indemnify OANDA for any and all direct or indirect losses, costs, fines or penalties how-so-ever arising which OANDA incurs as a result of any breach by the Partner of its obligations under this Agreement.
- 8.3 In no event shall OANDA, any OANDA Entity, its parent corporation or other related entities, successors and permitted assigns, and their respective officers, directors, shareholders, employees, service providers or suppliers (collectively, the "OANDA Indemnified Parties") be liable for lost profits or data, or any special, incidental or consequential damages arising out of or in connection with the Partner 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 To the fullest extent permitted under Applicable Law, OANDA 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 marketing partner program, and that the OANDA website(s) and links in the website(s) are free of errors, viruses or security threats.
- 8.5 The Partner agrees to indemnify and hold the OANDA Indemnified Parties free and harmless from any and all claims, liabilities, or damages, including attorneys' fees and costs incurred in defense of any action,

including the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing insurance coverage, related to or arising from (i) any breach by the Partner of any of its obligations under this Agreement, and any of its covenants, representations or warranties hereunder, and/or (ii) any allegations that the Partner is infringing the intellectual property rights (including, without limitation, copyrights, patent rights, trade secrets, trademarks, service marks, and rights of publicity) of a third party.

- 8.6 OANDA shall not be responsible for any losses resulting from a failure of the Partner to inform OANDA about changes relating to personal data and other information provided to OANDA in connection with the performance of this Agreement or for damages resulting from any OANDA action based on incorrect or outdated information provided by the Partner.
- 8.7 The liability of the OANDA Indemnified Parties to the Partner or any third parties in any circumstance is limited to the greater of:
- (a) the aggregate of the Fees paid by OANDA to the Partner in the twelve (12) months prior to the act or omission giving rise to the liability; and
  - (b) USD 2,000.
- 8.8 The Partner shall promptly inform OANDA of any information known to the Partner related to any Target Customers that may reasonably lead to a claim, demand or liability of or against OANDA by any third party.
- 8.9 Neither Party shall be liable to the other for any delay or failure to perform its obligations under this Agreement if such delay or failure arises from a cause beyond the reasonable control of and is not the fault of such Party, including but not limited to labor disputes, strikes, industrial disturbances, acts of terrorism, floods, lightening, utility or communication failures, earthquakes or other casualty. If such a force majeure event occurs, the non-performing Party is excused from whatever performance is prevented by the force majeure event to the extent prevented for so long as such event persists.

## **9. Non-assignment and Sub-contracting**

- 9.1 Neither Party may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.
- 9.2 Without prejudice to Section 9.1, the Partner shall not sub-contract any of its obligations under this Agreement without the prior written consent of OANDA. For the avoidance of doubt, Target Customers may only be

introduced to OANDA for the purposes of this Agreement by the Partner, and not by any other marketing partners or brokers (whether Connected Persons of the Partner 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 notice, request, demand or other communication required or permitted hereunder shall be sufficiently given only if in writing and only if delivered by hand or sent by registered mail (or its equivalent), courier, or email addressed to the other Party at the address set out in the Partner Portal or to such other person or address as the Parties may from time to time designate pursuant to this Section. OANDA may give any notice, demand, request, or other communication required by this Agreement pursuant to the requirements of this Section or otherwise, including but not limited to notice given by placing such notice on the OANDA website and by using any messaging feature available through OANDA's online site.
- 10.3 For the purposes of this Agreement, "**Connected Person**" means when used with reference to a Party, any entity that directly or indirectly controls or is controlled by or is under common control with such Party.
- 10.4 This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.
- 10.5 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.
- 10.6 This Agreement constitutes the entire agreement and understanding between the Partner and OANDA with regard to the matters set forth herein. This Agreement supersedes all previous agreements, representations or arrangements whether made orally, by e-mail or in writing.
- 10.7 OANDA reserves the right to amend this Agreement at any time upon the provision of one month's prior written notice to the Partner. In the event that the Partner does not accept the amended terms then the Partner must provide notice of termination to OANDA. If such notice is not

received by OANDA prior to the effective date of the amendment, the Partner will be deemed to have accepted the amendment.

- 10.11 No failure by either Party hereto to exercise and no delay in exercising any rights hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by either Party preclude any other or future exercise of that right or any other right hereunder by such Party.

## **11. Intellectual Property**

- 11.1 OANDA hereby grants the Partner a limited, revocable, non-exclusive, non-transferable, non-assignable, non-sub-licensable, royalty-free license during the term of this Agreement to use the Marketing Materials for the purposes of this Agreement.
- 11.2 All copyright, trademark, trade secrets and other intellectual property rights in the Marketing Materials (the "OANDA Intellectual Property") shall remain at all times the sole and exclusive property of OANDA and the other OANDA Indemnified Parties and the Partner shall have no right or interest in the Marketing Materials or in any other OANDA Intellectual Property.
- 11.3 The Partner shall comply with OANDA's marketing guidelines at all times and shall not modify the Marketing Materials or other OANDA Intellectual Property without OANDA's prior written consent. In the event OANDA grants such consent, the Partner hereby assigns and transfers to OANDA all of its right, title and interest in and to any modifications, amendments or developments to such Marketing Materials or other OANDA Intellectual Property.
- 11.4 The Partner may not use or promote, whether directly or indirectly, any of the OANDA Intellectual Property unless approved in advance by OANDA and, and in no event may the Partner modify or change the OANDA Intellectual Property in any way or take any action that may prejudice OANDA's rights in the OANDA Intellectual Property.
- 11.5 The Partner agrees not to adopt, use or attempt to register any trademarks, service marks or trade names that are confusingly similar to the Marketing Materials or any other OANDA Intellectual Property any OANDA Entity.
- 11.6 OANDA reserves the right to modify any of the OANDA Intellectual Property including its logo, and the Partner agrees to modify them

accordingly within 10 days of notice provided by OANDA to the Partner regarding such modification.

## **12. Governing Law**

- 12.1 This Agreement shall be governed by the laws of the jurisdiction of the relevant OANDA Entity, and the Parties hereby submit to the exclusive jurisdiction of the courts of such jurisdiction.

*[signature page to Marketing Partner Agreement follows]*

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed on the last or only date of signatures below by their duly authorized officers.

[counterpartyName\_3FiuD2o]

[OANDA Entity]

By:[counterpartySignerSignature\_2gYdHqg] By:  
Name:[counterpartySignerName\_1aCMvaa]Name:  
Title: [counterpartySignerTitle\_Mt9gV0H]Title:  
Date:[counterpartySignerDateField\_JCb1nok]

Date:

[OANDA Entity]

By: \_\_\_\_\_  
Name:  
Title:  
Date:

[OANDA Entity]

By: \_\_\_\_\_  
Name:  
Title:  
Date:

[OANDA Entity]

By: \_\_\_\_\_  
Name:  
Title:  
Date:

[OANDA Entity]

By: \_\_\_\_\_

Name:

Title:

Date:

[OANDA Entity]

By: \_\_\_\_\_

Name:

Title:

Date:

[OANDA Entity]

By: \_\_\_\_\_

Name:

Title:

Date:



**Appendix no. 1 to the Marketing Partner Agreement  
Applicable OANDA Entity(ies)**

The Agreement is hereby executed between the Partner and the OANDA Entity indicated below. If more than one OANDA Entity is indicated below, a separate Agreement is entered into between each such OANDA Entity and the Partner on identical terms.

- OANDA (Canada) Corporation ULC** – corporate number 2012441875, physical address 370 King Street West, 2<sup>nd</sup> Floor, Box 60, Toronto, ON, Canada M5V 1J9 (“**OCAN**”)
  
- OANDA Corporation** – corporate number 3128864, registered address c/o the Corporation Trust Company, Corporation Trust Centre, 1209 Orange St., Wilmington, DE 19801, US (“**OC**”)
  
- OANDA Global Markets Limited** – corporate number 2026433, registered address c/o Maples Corporate Services (BVI) Limited, Kingston Chambers, PO Box 173, Roan Town, Tortola, British Virgin Islands (“**OGM**”)
  
- OANDA Europe Limited** – corporate number 7110087, physical address Dashwood House, 6<sup>th</sup> Floor, 69 Old Broad Street, London, EC2M 1QS, United Kingdom (“**OEL**”)
  
- OANDA TMS Brokers S.A.** – corporate number 0000204776, registered address Złota 59, 00-120 Warsaw, Poland (“**OTMS**”)
  
- OANDA Asia Pacific Pte. Ltd** – corporate number 200704926K, registered address 77 Robinson Road, #16-00, Robinson 77, Singapore 068896 (“**OAP**”)
  
- OANDA Australia Pty Ltd** – corporate number 152088349, physical address Level 1, 60 Martin Place, Sydney NSW 2000, Australia (“**OAU**”)

*[Appendix no. 1 to Marketing Partner Agreement]*

## **Appendix no. 2 to the Marketing Partner Agreement Derogations**

Derogations from the terms of the Agreement applicable to the contractual relationship between **OCAN or OC or OGM or OAP or OAU** and Partner. In the event of any conflict of the following provisions with the provisions of the main part of the Agreement, the following provisions shall prevail:

Notwithstanding Section 1.5 of the Agreement, OANDA may, from time to time and in its sole discretion, provide the Partner with certain personal information concerning Target Customers. Such information shall be used only for the purpose of (i) identifying the Target Customers to which Partner Services may be provided, as further described in Section 1.1(ii); (ii) directing outreach to Potential Customers in connection with the opening of an account with OANDA, including requests to provide specific information in connection with the account opening or the initial funding of a Potential Customer's account; or (iii) tracking Partner advertising performance. The Partner's use of such information shall be subject to Section 7 and **Appendix no. 3**.

Derogations from the terms of the Agreement applicable to the contractual relationship between **OTMS** and Partner. In the event of any conflict of the following provisions with the provisions of the main part of the Agreement, the following provisions shall prevail:

- 1) The Partner will not perform activities constituting outsourcing of essential activities referred to in Art. 30 of the Commission delegated regulation (EU) 2017/565 of April 25, 2016.
- 2) The Partner guarantees that the Marketing Materials will be directed to undefined recipients or to a broad audience consisting of at least 150 persons.
- 3) The Partner undertakes that it will not:
  - a. organise meetings with Target Customers,
  - b. conduct any marketing activities as part of the performance of the Agreement at closed seminars, events, conferences or exhibitions, where the number of participants may be less than 150 people.

Derogations from the terms of the Agreement applicable to the contractual relationship between **OAU** and Partner. In the event of any conflict of the following provisions with the provisions of the main part of the Agreement, the following provisions shall prevail:

The Marketing Materials should align to the Australian entity's Target Market Determination policy if marketing to Potential Customers in Australia. The Partner needs to have a profile within the Australian financial markets when marketing to Potential

Customers in Australia. No personal advice should be given on the websites and the websites should contain only balanced and impartial information. The website should be primarily finance, investment or trading focused. For Partners that market to Australian Potential Customers, they need to be resident in Australia and should have a profile in the Australian markets. The Partner should only target Potential Customers from within Australia and its territories.

The Partner may not act on behalf of, or on instruction of OAU and is not a representative of OAU for the purposes of the Corporations Act.

The Partner shall notify OAU immediately if it has obtained or is in the process of obtaining an Australian financial services license from the Australian Securities & Investments Commission in which case this Agreement will immediately be terminated

The Partner shall disclose to customers who are referred to OAU that the Partner may receive a commission from OAU for successful referrals.

OAU has the right to review and assess compliance by the Partner of the Partner's obligations under this Agreement.

### **Appendix no. 3 to the Marketing Partner Agreement Data Protection Addendum**

Considering the fact that OANDA (hereinafter understood as the "**Controller**") and Partner (hereinafter understood as the "**Processor**") concluded an Marketing Partner Agreement (hereinafter referred to as "**AA**"), for the implementation of which it is necessary to process personal data (personal information, etc., regardless of nomenclature related to Applicable Laws) entrusted by the Controller to Processor (hereinafter referred to as "**Personal Data**"), as well as bearing in mind the content of the provisions of law on the protection of Personal Data applicable to both (Controller and Processor), the Parties agree as follows:

#### **§ 1**

1. In order to perform the AA, the Controller entrusts the Processor with the processing of Personal Data on behalf of the Controller to the extent and on the terms specified in this document.
2. The Processor is entitled to process Personal Data on behalf of the Controller only for the purpose and in the manner specified in this document.

#### **§ 2**

1. The order to process Personal Data, which is the subject of this document, covers the Personal Data of the Controller's Customers and Controller's employees.
2. The detailed scope of Personal Data includes: (i) Controller's Customers - first and last name, e-mail address and telephone number; (ii) Controller's employees - first and last name, e-mail address and telephone number, address, title.

#### **§ 3**

1. The Controller entrusts the Processor with the processing of Personal Data on behalf of the Controller in the following activities: collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
2. Personal Data processing is permanent in connection with the implementation of the AA, in electronic form.

#### **§ 4**

1. The Processor is obliged to process Personal Data only in accordance with the instructions provided by the Controller, unless required by the Applicable Laws.
2. Instructions should be understood as the provisions of the AA, provisions of this document and other further instructions given to the Processor by the Controller, in accordance with the content of this paragraph.
3. Any further instructions will be provided by the Controller to the Processor in writing or via e-mail indicated in the provision of § 14 (1) of this document.

4. If the Processor is unable to comply with the instruction, due to technical and organizational possibilities, the Processor is obliged to immediately, but not later than within 5 days, inform the Controller that it is not possible to comply with the instruction and also indicating the reason for which it is not possible to follow the instruction.

## § 5

1. The Processor declares that provides sufficient guarantees - in particular through expertise, experience, reliability and resources - of the implementation of technical and organizational measures - that the processing of Personal Data on the basis of AA meets the requirements of the Applicable Laws and Regulations, including in particular with regard to the security of processing of Personal Data and declares that such measures have been implemented.
2. The transfer of Personal Data outside the European Economic Area or United Kingdom may take place only with the prior consent of the Controller and must be based each time on an appropriate transfer tool (in particular Chapter V of the GDPR or UK GDPR, for example, the standard contractual clauses apply and become by default a part of the present contractual relationship), and in the event that it is related to the use by the Processor of the services of the Other Processor must also meet the other requirements described in § 8 of this document.

## § 6

The Processor is obliged to:

- 1) take up before processing Personal Data on the basis of AA and apply organizational and technical measures ensuring an appropriate level of security of Personal Data throughout the duration of the processing of Personal Data, in particular by securing Personal Data against disclosure to unauthorized persons, removal by an unauthorized person, processing in violation of Applicable Laws and Regulations and change, loss, damage or destruction;
- 2) keeping the data protection documentation required by the Applicable Laws, including all policies, registers, lists, analyzes;
- 3) cooperate, at any request, with the supervisory body authorized to control compliance with the provisions of the Applicable Laws and, in the manner, specified by this body;
- 4) documenting any breaches of Personal Data protection, including the circumstances of the breach, its effects and the remedial actions taken;
- 5) ensure that:
  - i. only persons authorized to do so by the Processor were able to process Personal Data;
  - ii. persons authorized to process Personal Data undertook in writing to keep the Personal Data and the methods of securing them confidential;

iii. any natural person acting under the authority of the Processor, who has access to Personal Data, processed it only at the request of the Controller, unless it is required by the Applicable Laws.

## § 7

1. The Processor is obliged to inform the Controller immediately, but not later than within 24 hours of detection (via e-mail to the following address: [privacy@oanda.com](mailto:privacy@oanda.com)) about:
  - 1) any proceedings or ruling regarding Personal Data, including in particular their proper protection;
  - 2) a breach of Personal Data protection identified by the Processor or the threat of such a breach, together with a description, the nature of the Personal Data breach, including the category and approximate number of data subjects, the possible consequences of a breach of Personal Data protection, measures taken or proposed by the Processor to remedy the Personal Data breach, including measures to minimize its possible negative effects;
  - 3) announcements or initiation by the supervisory authority of an inspection or investigation regarding Personal Data.
2. The Processor is obliged to support the Controller, in the manner specified by Controller, in all matters regarding Personal Data, in particular by immediately (no later than within 5 days):
  - 1) providing written explanations or information;
  - 2) sharing documents or other types of records;
  - 3) enabling: viewing or saving information stored in IT systems; reviewing the state of IT systems; conducting IT system security tests.
3. The obligation referred to in sec. 2 above also applies to supporting the Controller in fulfilling the obligation to provide the data subject with information on the processing of his or her Personal Data and any other obligations of the Controller resulting from the use of the data subject's rights in accordance with the Applicable Laws and Regulations.

## § 8

1. The Processor may not, in order to perform all or selected personal data processing activities on behalf of the Controller, use the services of another processor (hereinafter referred to as "**Other Processor**") without the prior consent of the Controller.
2. The declaration of consent referred to in sec. 1 above should include:
  - 1) the name and contact details of the Other Processor;
  - 2) specification of the personal data processing activities, for the purpose of which the Processor will use the services of Other Processor;

*[Appendix no. 3 to Marketing Partner Agreement]*

- 3) type of personal data and categories of data subjects.
3. The consent referred to in sec. 1 above may be revoked by the Controller after presenting the justification based on the Applicable Laws - in this case, the Processor is obliged to immediately stop using the services of the Other Processor in order to perform the processing of Personal Data.
  4. The Processor ensures and guarantees that the Other Processor will provide the same guarantees and fulfill the same obligations that are incumbent on the Processor under this document, in particular the obligation to provide sufficient guarantees for the implementation of technical and organizational measures - that the data processing on the basis of this document meets the requirements of the Applicable Laws and Regulations, in particular with regard to the security of Personal Data.
  5. In the event that the Other Processor fails to fulfill its obligations to protect Personal Data, the full responsibility towards the Controller for the performance of the obligations of the Other Processor rests with the Processor.
  6. The Processor declares that as at the date of this document, in order to properly implement the AA, the Processor will use the Other Processors described in **Appendix A** to this document, for the processing of data.
  7. The Controller declares that it agrees to further entrust the processing of Personal Data to the entities listed in **Appendix A** in the scopes and purposes described therein, and the Processor is obliged to maintain the level of protection required by the Controller in relation to Other Processor.
  8. The Processor is obliged to keep records of Other Processors to whom entrusted Personal Data for processing.

## § 9

1. The Controller is entitled to audit the Processor in terms of the compliance of the Processor's Personal Data processing activities with the provisions of this document and the Applicable Laws, in particular to verify the performance of the Processor's obligations.
2. The Controller is obliged to notify the Processor of the intention to conduct an audit at least 14 days in advance, and if the Controller receives information about a gross breach by the Processor of the obligations arising from this document or the Applicable Laws, the Controller is entitled to conduct the audit without prior notice.
3. The Controller has the right to indicate persons authorized to conduct the audit on the Controller behalf.
4. The Processor obliged to enable the Controller or the persons referred to in sec. 3 above, conducting an audit, in particular by:
  - 1) allowing access to the property, facility, premises or part thereof;
  - 2) providing the applied technical measures for the protection of Personal Data, including in particular systems, devices, programs, tools, applications, also for the purpose of conducting IT system security tests;



- 3) providing access to documents or devices and enabling the preparation of copies of documents or data stored on devices;
  - 4) providing information or explanations in oral or written form, at the Controller's choice;
  - 5) enabling unlimited filming and photographing and making sound recordings; to the extent necessary to conduct the audit.
5. The Controller is entitled to provide the Processor, after an audit, with written recommendations, along with a deadline for their implementation, not shorter than 30 days. The Processor is obliged to comply with the post-audit recommendations, in particular regarding the protection of Personal Data in technical and organizational terms and the manner of performing their processing or transferring the position of non-performance justified on the basis of the Applicable Laws.

### **§ 10**

1. The Processor is authorized to perform processing activities on behalf of the Controller for the duration of the AA.
2. The Controller is entitled to terminate the AA with immediate effect in the event of:
  - 1) the Processor processing Personal Data for the purpose or in a manner other than that specified in this document;
  - 2) use by the Processor, in order to perform on behalf of the Controller all or selected activities of Personal Data processing, the services of Other Processor without the Controller's consent;
  - 3) finding, in particular as a result of an audit carried out by the Controller on the basis of this document, the processing of Personal Data by the Processor in violation of the provisions of the Applicable Laws or this document, in particular by failure to implement appropriate organizational and technical measures ensuring an appropriate level of security.

### **§ 11**

1. After the termination of AA, regardless of the method or reason, the Processor, at its expense and risk, is obliged to return the Personal Data to the Controller and then delete any existing copies thereof.
2. Personal data should be removed by the Processor within 21 days from the date of completion of processing based on this document.
3. The Processor is obliged to provide the Controller with the Personal Data deletion protocol within 14 days from the date of deletion of Personal Data.

### **§ 12**

1. The Processor shall be liable for any material or non-material damage suffered by third parties as a result of the processing of Personal Data in a manner that violates the Applicable Laws or this document.
2. In the event of a breach of the Applicable Laws or this document for reasons attributable to the Processor or Other Processor, as a result of which any third

party, including the person to whom the Personal Data relates, would take any action against the Controller with claims based on the infringement of that person's rights, the Processor is obliged to:

- 1) release the Controller from the obligation to pay any damages or compensation for infringement of the rights of a third party;
  - 2) covering the costs incurred by the Controller in connection with raising the above claims by a third party, in particular the costs of legal services;
  - 3) release from any claims other than those specified above and covering all costs incurred by the Controller in connection with raising these claims against the Controller.
3. In the event that the Processor does not release the Controller from the obligation to pay any damages or compensation referred to above and the Controller pays them to a third party, the Processor is obliged to reimburse the Controller for the amounts paid by the Controller.
  4. The Processor is obliged to cover the costs and reimburse the damages or compensations paid by the Controller, referred to above, within 14 days from the date the Controller calls the Processor to pay these amounts.

### **§ 13**

The remuneration for the processing of Personal Data on the basis of this document and the performance of the obligations set out therein is covered by the remuneration due to the Processor for the performance of the AA.

### **§ 14**

Whenever this document provides for the right or obligation to notify the other Party, the notification, in order to be considered effective, should be sent by registered mail or e-mail to the following addresses of the Parties:

- 1) the Controller: registered office address; [privacy@oanda.com](mailto:privacy@oanda.com);
- 2) the Processor: indicated in the registration form

**Appendix A to the Data Protection Addendum**

List of the Other Processors

Full name	Contact details	Specification of the personal data processing activities, for the purpose of which the Processor will use the services of Other Processor	Type of Personal Data and categories of data subjects

**Appendix no. 4 to the Marketing Partner Agreement  
Fees**

Fees to be paid and associated qualifying criteria are detailed on the website - Commissions Page  
<https://partners.oanda.com/en/commission-plans/>

Fees shall be paid by the relevant OANDA Entity to the Partner in respect of each Potential Customer who opens an account with OANDA as a result of the Partner Services subject to the terms of this Agreement and in accordance with the structure detailed on the above website. If any Potential Customer opens more than one account, no additional Fees will be payable in respect of any such additional accounts. Where two or more Potential Customers open a single joint account, only one set of Fees shall be payable in respect of such Potential Customers.