



Neds Affiliate Program - Terms and Conditions

These Terms and Conditions form a legally binding agreement between an Affiliate and GVC Australia Pty Ltd ACN 151 956 768 trading as NEDS AU ("Neds") in relation to the Neds Affiliate / Client Referral Program (the "Program").

1. Definitions

1.1 For the purpose of this Agreement, the following words or phrases shall have the following meaning, unless the contrary intention appears:

"Agreement" means these Terms and Conditions;

"Affiliate" means a person who has been approved by Neds as being eligible to participate in the Program and otherwise referred to herein as "you" and "your";

"Affiliate Account" means an account opened by the Affiliate at the Program Website for the purpose of monitoring the referrals of Affiliate Clients and Commissions earned under the Program.

"Affiliate Client" means a person who is not a minor and who has never previously held a Betting Account with Neds and who is referred to Neds by the Affiliate from the Affiliates Website using the agreed tracking code provided by the Affiliate and who successfully opens up a Betting Account.

"Affiliate Website" means any website operated by an Affiliate as an Affiliate Website, as nominated by the Affiliate when they applied to join the Program, and any other websites agreed by the parties from time to time for the purposes of referring new Affiliate Clients.

"Betting Account" means a Neds betting account that has been validly opened and the account holders identification verified in accordance with Neds Account and Betting Platform Terms of Use.

"Commission" means the amount payable to an Affiliate calculated as the Commission Rate multiplied by an Affiliate's Net Revenue.

"Commission Rate" means the commission rate set out on the "Commission" section of the Program Website at the time that an Affiliate became an Affiliate under this Agreement. The Commission Rate applies even if the commission rates published on the Program Website change after the time that an Affiliate became an Affiliate.

"Data Feed" means anything published on the Website which relates specifically to the market or event, including odds and corresponding event names and descriptions which is made available to the Affiliate in accordance with this Agreement;



“Minimum Referral Requirement” means in any consecutive three (3) month period by calendar month, the Affiliate must refer, on average, at least one (1) new Affiliate Client per month that make a first deposit and satisfy Neds customer identification and verification requirements.

“Program” means the Neds Client Referral Program governed by this Agreement;

“Program Website” means the website located at www.nedsaffiliates.com.au

“Unsuitable Website” has the meaning given to it in clause 3.4;

“Website” means www.neds.com.au, <https://m.neds.com.au>; <https://t.neds.com.au> and any Neds mobile phone or tablet application;

2. General

- 2.1. This Agreement applies to your application to, and participation in the Program as an Affiliate.
- 2.2. You may not apply to, or participate in the Program unless you have read, understood and accepted this Agreement.
- 2.3. You may not apply to or participate in the Program or accept this Agreement if you are under 18 years of age, or are otherwise precluded from participating in the Program under the laws of the country in which you are resident.
- 2.4. This Agreement will be deemed to have been accepted by you on the earlier of you:
 - (a) submitting an application to participate in the Program; or
 - (b) continued participation in the Program, at which point this Agreement will be legally binding between Neds and you.
- 2.5. Neds may make changes to this Agreement from time to time, including changes to the applicable Commissions in clause 5.2.1, by providing you notice on our Program Website. Any changes published on our Program Website will be taken to be effective when they are published. The latest modification of this Agreement will be as per the date stated at the top of this Agreement. If you do not agree to any variation to this Agreement, you may terminate this Agreement in accordance with clause 9.1.

3. Affiliate Membership Enrolment

- 3.1. To begin the enrolment process, a potential Affiliate must submit a complete Program application via the Program Website.



- 3.2. Affiliate must not attempt to open more than one Affiliate Account without prior written consent from Neds, nor will the Affiliate be entitled to earn commissions on their own or related persons' accounts. While the Affiliate is allowed to open and operate a Betting Account with Neds, the Affiliate cannot have their own Betting Account tracked to their Affiliate Account and therefore not entitled to any Net Revenue from wagering activity on their own Betting Account.
- 3.3. Affiliates are not permitted to place wagers with an Affiliate Client's Betting Account. If you would like to wager with Neds, please set up a separate Betting Account. In the event you open more than one Affiliate Account without our permission or earn commissions on your own or a related person's account, Neds has the right to void all current and future plays on those accounts and the Affiliate will not be entitled to any Commissions (past or future) from such plays.
- 3.4. Neds will evaluate the application and will notify the potential Affiliate of whether they are accepted to participate in the Program. Neds may reject any application if it is determined, in Neds' sole and absolute discretion, that the Affiliate Website nominated on application or related website is an Unsuitable Website.
- 3.5. "Unsuitable Websites" include, but are not limited to, those that:
 - (a) Infringe trademark rights of us or any third parties or otherwise violates the rights of any third party;
 - (b) Contain sexually explicit materials;
 - (c) Contain hate/violent/offensive content;
 - (d) Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;
 - (e) Promote illegal activities or otherwise violate any applicable laws, including those targeting spyware, adware or SPAM;
 - (f) Violate any intellectual property rights, including, without limitation, scraping text or images from the Website;
 - (g) Are or contain pages that are targeted at any person under 18 years of age;
 - (h) Are otherwise considered by Neds to be offensive or inappropriate.
- 3.5. If Neds rejects the application, potential Affiliates may re-apply to the Program at any time.
- 3.6. You should also note that if Neds accepts your application and your website is thereafter determined, at our discretion, to be an Unsuitable Website for the Program, we may immediately terminate this Agreement in accordance with clause 9.3.1.



4. Neds' Obligations and Responsibilities

- 4.1 Neds will make a variety of graphic and textual links as well as Data Feed available to the Affiliate for placement on the Affiliates Website(s). Subject to this Agreement, you may display the links and Data Feed as often and in as many areas of your website(s) as you desire. Neds only provides these graphic and textual links and Data Feed for use by you for the mutual benefit of you and Neds.
- 4.2 Neds will register your Affiliate Clients and will track their play on the Website and/ or phone. By opening an account with Neds, the Affiliate Client agrees that all applicable Neds rules, policies and operating procedures will apply to them. Neds reserves the right to refuse Affiliate Clients or close their accounts in its discretion.
- 4.3 Neds will track Affiliate Clients' play and will supply reports summarising Affiliate Client activity to Affiliate. The form, content and frequency of the reports available at Neds Affiliates may vary from time to time in Neds' discretion.
- 4.4 Unless otherwise agreed in writing, Neds will only pay the Affiliate in respect of Commissions earned on Affiliate Clients which are directly referred by the Affiliate from the through Affiliate's tracking code and are recorded on your Affiliate account.

5. Commission Model and Calculations

- 5.1 For the purposes of this clause 5, the following words have the following meanings:

"Australian Governing Sporting Body" means an Australian sports organisation that has a regulatory or sanctioning function and includes each of the Australian State and Territory Thoroughbred Racing, Harness Racing and Greyhound Racing peak bodies, National Rugby League, Australian Rugby Union, Australian Football League, Cricket Australia, Tennis Australia, Soccer Australia and National Basketball League.

"Gross Revenue" means all gross bets, wagers and other monies received by Neds from Affiliate Clients in a particular reporting period.

"Net Revenue" means Gross Revenue for a particular reporting period, less all of the following items:

- (a) monies paid out to Affiliate Clients as winnings;
- (b) GST on winnings;
- (c) tax on turnover;



- (d) monies paid in the form of duties, taxes or levies or other statutory deductions or payments to licensing authorities in the form of 'product fees' (e.g. Racing Victoria Limited) or Australian Governing Sporting Body;
- (e) charges levied by electronic payment or credit card organisations;
- (f) Affiliate Client credit and bad debts;
- (g) monies received from Affiliate Clients betting through the American Tote;
- (h) monies attributable to fraud;
- (i) returned bets;
- (j) administration fees; and
- (k) bonus bet winnings, bonuses or other incentives offered to the Affiliate Client.

5.2 Revenue-Share Plan

- (a) Neds will pay you a Commission equal to the applicable variable percentage of Affiliate Client Net Revenue published on our Program Website or by clicking this link <http://www.nedsaffiliates.com.au/commissionplan.html> (which Neds may change from time to time in accordance with this Agreement) or any other amount agreed between the parties, derived from any legitimate transaction from Affiliate Clients assigned to Affiliate during the Term of this Agreement. You will not be paid in respect of transactions or Affiliate Clients that breach Neds' Betting Rules, Neds Account and Betting Platform Terms and Conditions (e.g. fraudulent transactions or duplicate accounts).
- (b) During the Term of this Agreement, Affiliates participating in a revenue-share payment model as agreed with Neds will earn Commissions in respect of all legitimate transactions that your referred Affiliate Clients undertake accordance with your applicable revenue-share plan, subject to Affiliate having met the Minimum Referral Requirement. Where Affiliate fails to meet the Minimum Referral Requirement, Neds may:
 - (i) refuse to pay Commissions to Affiliate for the applicable month(s); and/or
 - (ii) close Affiliate's account and terminate this Agreement.

5.3 Cost per Acquisition (CPA) Plan

Neds offers selected affiliates a CPA plan. CPA plan is only available on request and details of the plan are contained in a separate agreement.



6. Approved Advertising Material on Affiliate Website

All graphical or textual images and legal disclaimers comprising the banner advertisements displayed on Affiliate's Website(s) which includes any reference to Neds or a promotion offered by Neds ('Neds Banners'), shall:

- (a) If created by Neds, be displayed on the Affiliate's Website(s) in the same unaltered form as provided by Neds; or
- (b) If created by the Affiliate, submitted to Neds for amending (if required) and approval, prior to being displayed on the Affiliate's Website(s).

7. Affiliate Obligations and Responsibilities

- 7.1 Neither you nor your direct relatives (including but not limited to their spouse, partner, parent, child or sibling) or any connected party on your behalf (whether a director, contractor, partner, agent, employee or otherwise) are eligible to become an Affiliate Client for the purposes of your Agreement with Neds, and Affiliate will not be entitled to any share of Net Revenue or any other remuneration from Neds in relation to such persons.
- 7.2 Affiliate must use best commercially reasonable efforts to actively and effectively advertise, market and promote Neds as widely and aggressively and responsibly as possible in order to maximise the financial benefit to both the Affiliate and Neds, including ensuring that the Affiliate promotes Neds no less prominently than any other bookmaker promoted on the Affiliate's website or other promotional material.
- 7.3 The Affiliate will only engage in advertising, marketing and promotional efforts which do not violate any law, are not published on Unsuitable Websites, are not directed at individuals who are under 18 years of age or who are known to be problem gamblers, and which reflect positively on the business reputation of the Neds brand. An Affiliate may not trade as, or be associated with a third party investment business or company which offers investment services on racing or sports. An Affiliate must not place any wager for or on behalf of or in any way connected with any Affiliate Client referred by them to Neds.
- 7.4 Affiliate must provide Neds at no cost with all data and information (including, for example, passwords) to enable Neds to monitor Affiliate's website to ensure compliance with this Agreement.
- 7.5 Affiliate must ensure that the correct tracking is utilised on their website. Neds will not change the Affiliate tracking ID for referrals resulting from incorrect or incomplete tracking. Neds is not responsible for commission fees generated from referrals with incorrect or incomplete referral information.



- 7.6 Affiliate must not establish any social network domain, blog domain, profile name or display name containing Neds.
- 7.7 Affiliate must not purchase any domains that include Neds, or bidding on any keywords or keyword phrases that include, but are not limited to, Neds or Neds.com.au. This includes, but is not limited to, the following search engines: Google, Yahoo7, NineMSN.
- 7.8 Affiliate must not utilise derivatives of Neds in URLs and directory names for the intention of search engine optimisation.
- 7.9 Affiliate must only use the Data Feed provided under this Agreement in accordance with this Agreement and must not make available the Data Feed to any third party for profit or for the benefit of the Affiliate or the third party accept in accordance with this Agreement.
- 7.10 Affiliate shall not place banners or links in any unsolicited emails, make unauthorised postings in any newsgroups or chat rooms or through the use of "bots". Any traffic generated through any of these methods will be deemed illegal and commission will not be payable.
- 7.11 Affiliate will bear all costs and expenses incurred in connection with the advertising, marketing and promotion of Neds.
- 7.12 Affiliate must not create, publish, distribute, or permit any written material that makes reference to Neds without first submitting such material to Neds and receiving prior written consent, which will not be unreasonably withheld.
- 7.13 Affiliate agrees to cooperate fully with Neds in utilising and maintaining links and other promotional tools as supplied by Neds. Furthermore, Affiliate agrees to:
 - (a) Utilise the entire code for the banners, links and other promotional tools (including the tracking codes therein) and must not in any way alter or remove any part of the code;
 - (b) Display on Affiliate's website(s) only those graphical or textual images that are provided by Neds;
 - (c) Update such images with new images provided by Neds from time to time throughout the Term of this Agreement;
 - (d) Display such graphic and/or textual images prominently in relevant sections of Affiliate's website(s).
 - (e) Only direct marketing materials to individuals who are over 18 years of age and who are not known to be problem gamblers; and



- (f) In accordance with Neds' reasonable directions, include 'Gamble Responsibly' (or such other responsible gambling message as reasonably requested by Neds) in connection with all Neds branded advertising, materials and communications.

7.14 Neds employs strict eDM (email direct marketing) guidelines and policies for affiliates, media and other third parties. The eDM guidelines and policies serve to protect the Neds group of companies, and email reputation with members, Internet Service Providers (Google, AOL, Yahoo, Hotmail, etc.) and spam services including Spam Cop, Spam Assassin, Goodmail, Bonded Sender and others. Affiliates that conduct unauthorised eDM communications advertising any of Neds-related brands are subject to Neds placing their Affiliate account under review and withholding all funds otherwise due pending investigation. Classification of eDM communications that would be subject to review includes unsolicited email (spam), spamvertising and spoofing. By registering as an Affiliate, Affiliate agrees to abide to all No Spam regulations and employ best practices in all marketing email communications. Affiliate further acknowledges and agrees that Neds may potentially incur penalties and legal expenses as a result of unauthorised third party email communications from Affiliate and in such event these expenses will be deducted from Affiliate's account. Should these expenses not be covered by funds in Affiliate's account Neds reserves the right to demand payment from Affiliate.

7.15 Affiliate must comply with all relevant laws and regulations, including, without limitation:

- (a) Privacy Laws;
- (b) The Spam Act 2003;
- (c) The Anti-Money Laundering and Counter-Terrorism Financing Act 2006;
- (d) The Australian Consumer Law; and
- (e) All relevant wagering or gambling laws, regulations, codes and guidelines.

If Affiliate becomes aware of any matter, fact or circumstance that is likely to put Neds in breach of any law or regulation, or result in a breach of this Agreement by either party, or which may prejudice the security or integrity of the Neds Website or the Neds' business, then Affiliate must notify Neds in writing as soon as reasonably practicable after becoming aware of the matter.

7.16 **GEO blocking of advertisements containing inducements**

In regard to any advertising material containing any express or implied reference to Neds or Neds wagering services and which contains any 'gambling inducement' as that term is defined in the applicable State legislation ('Inducement Advertisements') that is published or



communicated by the Affiliate on the Affiliate Website or any other form of digital media, shall be required to install and ensure correct functioning of industry standard Geo-fencing / IP blocking software which is capable of accurately identifying and preventing people located in any State of Australia which has specific prohibitions on advertising of gambling inducements (including but not limited to New South Wales and South Australia) from accessing or viewing such Inducement Advertisements.

If the Affiliate does not have the required Geo-fencing / IP blocking software installed and correctly functioning, then the Affiliate shall not under any circumstances, publish or communicate any Inducement Advertisements on the Affiliate Website or via any other form of digital media. However, in such instances, the Affiliate may publish or communicate general branding (non inducement) advertising material provided or pre-approved by Neds.

7.17 **Indemnity**

- (a) The Affiliate will indemnify and pay or reimburse to Neds within 14 days of demand with respect to any and all fines, losses, demands, claims, damages, costs, expenses (including legal costs and expenses) and liabilities suffered or incurred by Neds in consequence of any breach of this Agreement by Affiliate.
- (b) Any bona fide claim made by Neds under this indemnity may be set-off against and deducted from any Commission or other fees payable to the Affiliate.
- (c) Neds will take reasonable steps to mitigate the amount of any such fines, losses, demands, claims, damages, costs, expenses and liabilities. Any liability of Affiliate under this clause is reduced to the extent that any act or omission by Neds contributed to that liability.

7.18 The Affiliate will not market or promote any website within or to persons from any Restricted Territories; or be involved in any traffic coming from any Restricted Territories; or allow, assist or encourage circumvention of any restriction put in place by Neds and/or any website in connection with Restricted Territories. "Restricted Territories" means those countries/territories listed under the section headed "Prohibited Countries" in Neds Account and Betting Platform Terms of Use located at www.neds.com/accounttermsfuse , which list may be amended from time to time by providing notice to you on our Program Website. If Neds determine, in its sole discretion, that you have breached this clause 7.18, Neds may (without limiting any other rights or remedies available) withhold any monies otherwise payable to you under this Agreement and/or terminate this Agreement in accordance with clause 9.4.

7.19 The Affiliate will indemnify and forever hold Neds harmless from all actions, claims, liabilities, losses, damages, costs, and expenses, including legal costs, fines and penalties, arising from or in connection with any breach by the Affiliate of this Agreement.



8. Social Media Marketing

- 8.1 Without limiting the Affiliate's other obligations under this Agreement, in relation to all marketing, communications and posts on or via social media platforms (such as Facebook, Twitter and Instagram and other channels approved by Neds) relating to Neds, the Affiliate must:
- (a) clearly identify all such advertisements, posts and marketing communications as being advertisements. For example, Tweets on Twitter which relate to Neds should contain hashtags such as "#ad" or "#spon" at the end of the Tweet;
 - (b) comply with the relevant social media platform's guidelines and terms of use (including any terms regarding gambling advertising and marketing);
 - (c) ensure that advertisements and marketing communications relating to Neds or gambling in general are not directed at persons under the age of 18 or persons known to be problem gamblers, and to the fullest extent possible, ensure that such communications and advertisements are not accessible by such persons;
 - (d) ensure that all marketing communications and advertisements reference both Neds and Affiliate (in either the ad-copy/text or the image);
 - (e) not hold itself out as Neds, or represent or imply that the communication or advertisement is published by or on behalf of Neds;
 - (f) make it clear in any communication by Affiliate to potential Affiliate Clients that the communication is made without the knowledge or involvement of Neds and that any complaint that the recipient may wish to make should be addressed to Affiliate and not Neds; and
 - (g) in accordance with Neds's reasonable directions, include 'Gamble Responsibly' (or such other responsible gambling message as reasonably requested by Neds) in connection with all marketing, communications and posts relating to Neds.

9. Commission Payments

- 9.1 Subject to the Affiliate having met the Minimum Referral Requirements, Neds will pay the Affiliate's Commission on a monthly basis in arrears and according to the applicable commission plan.
- 9.2. Payment for the preceding month will be processed within 30 days of each calendar month. If Affiliate commissions earned do not exceed one hundred dollars (\$100 AUD) in any given month, then payment will be carried over to the following month until they exceed \$100.00 AUD.



- 9.3 In the event that a revenue share payment amount in any calendar month is a negative amount, Neds will be entitled but not obliged to zero the negative balance that would otherwise be carried forward.
- 9.4 All amounts are calculated and paid in accordance with Neds's reasonable and good faith means of statistical analysis and Affiliate Client tracking methods.
- 9.5 Neds will use reasonable endeavours to make payments due to you using the payment details provided to us. However, in certain circumstances we may be unable to make payments to you for reasons outside of our control (e.g. where the bank account details are provided are inaccurate or incomplete). Where this occurs, we will make reasonable efforts for a period six months to contact you via the contact details last provided by you to Neds to obtain alternative payment details. If we are still not in a position to make the payments after this period, we may close or suspend your account without further notice and you will be deemed to have forfeited any entitlement to payment.
- 9.6 If an Affiliate Client registered through an Affiliate is banned from having an account with Neds for any reason (including fraud, suspected fraud or breach of Neds' Betting Rules, Neds Account and Betting Platform Terms of Use, etc, Neds will not pay the Affiliate for the revenues generated by such banned Affiliate Client. If Neds has paid Affiliate in respect of a banned Affiliate Client, Neds may set-off the amount of such payment against future payments otherwise due to Affiliate and, if requested by Neds, you must repay any shortfall to us within 15 days of receiving notice from us.
- 9.7 If an Affiliate Client registered through Affiliate is being investigated for credit card, bank information or address verification, Neds will withhold payments of profits generated from that Affiliate Client until the investigation is completed. If such investigations lead Neds to ban such Affiliate Client, Neds may set-off all amounts Neds has paid Affiliate in respect of that banned Affiliate Client against future payments otherwise due to Affiliate and, if requested by Neds, you must repay any shortfall to us within 15 days of receiving notice from us.
- 9.8 Where the Gross Revenue generated by a particular Affiliate Client comprises 50% or more of the Gross Revenue for a particular reporting period and if in that same reporting period, the Net Revenue calculated under Clause 5.1 is negative (ie. a net loss), then Neds reserves the right to carry forward such losses and apply them against the Gross Revenue generated in subsequent month(s).

10. Termination

- 10.1 Either Neds or the Affiliate may terminate this Agreement for convenience, by giving the other party at least 14 days' written notice (by post, facsimile or email) of termination.
- 10.2. Neds may immediately terminate this Agreement by giving written notice to the Affiliate if the Affiliate breaches the Agreement and:



- (a) The breach is material and not capable of being remedied; or
- (b) The breach is material and the Affiliate fails to remedy the breach within 5 days of being notified in writing to remedy such breach.

10.3 A material breach may include that the Affiliate breaches any of the Affiliate obligations. For example, if the Affiliate:

- (a) Attempts to refer potential Affiliate Clients from Unsuitable Websites;
- (b) Is not an active member of the Program and/or the Minimum Referral Requirement is not met.
- (c) Solicits, entices, incentivises, promotes to or otherwise encourages in any way, any Affiliate Client to cease betting with Neds and/or directly join another bookmaker
- (d) Fails to notify Neds of any matter, fact or circumstance that is likely to put Neds in breach of any law or regulation, or result in a breach of this Agreement by either party, or which may prejudice the security or integrity of the Neds Website or the Neds' business.
- (e) fails to provide reasonable assistance to Neds to meet legal, regulatory or license requirements or conditions.
- (f) does not follow a reasonable direction given to it by Neds.
- (g) conducts itself in any way which brings or could bring Neds or Neds' reputation into disrepute.

10.4 Neds may immediately terminate this Agreement by giving written notice to the Affiliate if:

- (a) Affiliate commits a criminal offence, commits a fraud, or breaches any law or regulation.
- (b) Neds is of the reasonable opinion that as a consequence of the actions of Affiliate, Neds may be liable for loss or suspension of its license or the imposition of any penalty under its license or law or regulation.
- (c) Neds is of the reasonable opinion that the Affiliate is not a genuine Affiliate or that the Affiliate is the recipient of Net Revenue from wagering activity on another person's Betting Account.
- (d) Affiliate undergoes a change of control and the person who acquires control of Affiliate either:



- (i) lacks the financial or technical capability to perform its obligations under this Agreement; or
- (ii) is a competitor or existing affiliate of Neds;
- (e) Affiliate assigns or purports to assign its rights otherwise than as permitted by this Agreement;
- (f) requested to do so by a relevant government official;
- (g) Neds' license is terminated or suspended for any reason;
- (h) Affiliate becomes Insolvent or, being a natural person, commits an act of bankruptcy.
- (i) Affiliate assigns any part of this Agreement without the prior consent of Neds.

10.5 If this Agreement is terminated under clauses 10.1 to 10.4 above, then:

- (a) All rights and licenses granted to Affiliate will terminate immediately.
- (b) Affiliate must remove all Neds banners from their site and disable any links to the Website from the Affiliate website.
- (c) The Affiliate must cease using any of Neds' intellectual property;
- (d) Subject to any Commission validly withheld by Neds under clause 10.6, the Affiliate will be entitled to any unpaid Commissions, if any, earned by Affiliate on or prior to the date of termination. Affiliate will not be entitled to referral fees occurring after the date of termination.
- (e) Neds may withhold final payment for a reasonable time to ensure that the correct amount is paid to Affiliate.
- (f) If Neds continues to permit activity (generation of revenue) after termination from Affiliate Clients referred by Affiliate, this does not constitute a continuation or renewal of this Agreement or a waiver of termination.
- (g) Affiliate will return to Neds any confidential information, and all copies of information in your possession, custody or control. Affiliate will cease all use of any trade names, trademarks, service marks, logos and other designations of Neds or its licensors.
- (h) Affiliate and Neds will be released from all obligations and liabilities to each other occurring or arising after the date of such termination, except with respect to those obligations that by their nature are designed to survive termination, as set out in this



Agreement. Termination will not relieve Affiliate from any liability arising from any breach of this Agreement, which occurred prior to termination.

- (i) Affiliate's sole right and remedy is to receive any outstanding Commission owing at the Termination Date; and
- (j) Affiliate is not entitled in contract, tort or otherwise to any additional payment or compensation for any loss or expense incurred as a result of termination of this Agreement.

10.6 The termination of this Agreement will not affect any other right or remedy of Neds.

11. Warranties and Limitations

11.1 This Agreement contains the entire agreement between the parties in relation to its subject matter and supersedes all previous agreements and understandings between the parties with respect to its subject matter.

11.2 You expressly understand and agree that to the fullest extent permitted by law Neds, its subsidiaries and affiliates, and its licensors and service providers are not liable to you for:

- (a) Any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability, other than where such damages are caused by any act of fraud or wilful misconduct from Neds. This includes, but not be limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation, any loss of data suffered, cost or procurement of substitute good or services, or other intangible loss;
- (b) Any loss or damage which may be incurred by you, including but not limited to loss or damage as a result of:
 - (i) any changes which Neds may make to the Program, or for any permanent or temporary cessation in the provision of the Program (or any features within the Program);
 - (ii) the deletion of, corruption of, or failure to store, any content or other communications data maintained or transmitted by or through your use of the Program;
 - (iii) your failure to provide Neds with accurate account information; or
 - (iv) your failure to keep your password or account details secure and confidential.

The limitations on Neds' liability above apply whether or not Neds has been advised of or should have been aware of the possibility of any such losses arising.



12. Miscellaneous

- 12.1 This Agreement constitutes the entire agreement between Affiliate and Neds in relation to its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- 12.2 Affiliate agrees that if Neds does not exercise or enforce any legal right or remedy which is contained in this Agreement (or which Neds has the benefit of under any applicable law), this will not be taken to be a formal waiver of Neds' rights and that those rights or remedies will still be available to Neds.
- 12.3 Affiliate may not assign this Agreement without prior written consent of Neds. Subject to that restriction, this Agreement will be binding on, operate to the benefit of, and enforceable against Affiliate and Neds and their respective successors and assigns. Should an affiliated website be sold, whether that website's existing sheet of Affiliate Clients will be transferred to the new owner and / or accepted by Neds for the purposes of the Program is at the discretion of Neds.
- 12.4 Neds and Affiliate are independent contractors, and no terms in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. Affiliate will have no authority to make or accept any offers or representations on behalf of Neds. Affiliate will not make any statement, whether on its website or otherwise, that states or implies that Affiliate has the authority to represent Neds.
- 12.5 Any term or part of a term of this Agreement that is held invalid or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms of this Agreement continue in force.
- 12.6 The laws of Queensland, Australia govern this Agreement. Any action relating to this Agreement must be brought in Queensland, Australia and the parties irrevocably consent to the non-exclusive jurisdiction of the courts of Queensland.
- 12.7 This Agreement and all representations, obligations, undertakings and warranties contained in it will operate for the benefit of any successor and/or assignees of Neds.
- 12.8 The Affiliate will allow Neds and its reputable third party auditors to conduct an audit of the activities and records of the Affiliate, and permit Neds to take copies of such records, on reasonable notice, at reasonable times, and no more than once during each year of the term. The Affiliate will provide access to its records, systems, facilities and/or personnel (each to the extent reasonably necessary) in connection with the audit.