

## AFFILIATE PARTNER AGREEMENT

The individual is deemed to accept the terms of this agreement by clicking on the box indicating acceptance or clicking, ' **I agree to the terms**'; (i) agrees on behalf of the association, entity, or corporation that such individual has read, understood and accepts these terms and conditions; and (ii) represents that such individual has the authority to bind the association, entity, or corporation and its affiliates to this agreement. If such an individual does not have such authority or does not agree with these terms and conditions, such an individual must not accept this agreement. This agreement is effective between the Affiliate Partner and Convert Insights, Inc. ("**the Company**") as on clicking on the acceptance. The Company reserves the right to change these terms of service from time to time.

### WHEREAS

- a. The Company has created an affiliate program **Convert Ambassador Program** ("**Affiliate Program**")
- b. Subject to the terms and conditions of this Agreement, the Affiliate intends to join the Company's Affiliate Program to promote the Company's services to the Affiliate's potential customers on the Affiliate's website for a fee in the manner agreed by the parties hereto.

In consideration of and as a condition of this Agreement and other valuable consideration, the receipt, and sufficiency of which considerations are hereby acknowledged, the Parties agree to the provisions as follows:

### 1. DEFINITIONS

"**Company's Website**" refers to the company's primary website maintained at the address <https://www.convert.com/>.

"**Affiliate's Website**" refers to the website on which the Affiliate agrees to place a link or code to the Company's website in the manner specified by the Company.



"**Services**" means A/B testing services offered by the Company for sale to the customer pursuant to the Affiliate Program.

"**Value of Service**" means in relation to any Goods or Services, the fees charged by the Company to the customer, less:

- any sales tax, turnover tax, value-added tax or other tax payable thereon;
- any expenses or out-of-pocket disbursements.

whether or not such items are separately invoiced.

## **2. AFFILIATE PROGRAM**

- a. Affiliates must complete and submit the application form on the Company's Website to join the Affiliate Program.
- b. Affiliate understands and agrees that his/her business will be evaluated by the Company to determine whether the Affiliate is a proper fit to be an affiliate for Company's Affiliate Program.
- c. The Company reserves the right to approve or reject Affiliate's application at the Company's sole and absolute discretion.
- d. Upon approval of the Affiliate's application form, the Company shall provide Affiliate with a specific link or code to the Company's Website for Affiliate to use and give to his/her respective customers on the Affiliate's Website.
- e. Affiliates may promote the Company's services through the use of unique affiliate codes / links. Affiliate codes / links shall be assigned by the Company and shall be used in place of tracking links for the purpose of tracking Affiliate's referrals.

## **3. COMMISSION**

- a. The fee shall be calculated as laid down below:



Year	Commission Percentage
1st Year	15%
2nd Year	10%

The fee shall be calculated as mentioned above in the table of the net value of Goods and/or Services sold directly as a result of this Affiliate Agreement ("**Affiliate Fee**"). The net value shall exclude value-added tax, postage and packaging, insurance, refunds and payments not honored by a financial institution.

- b. Affiliate is responsible for maintaining proper payment information with the Company in order to receive Affiliate Fee including current email address information, and accounting and tax documentation.
- c. Upon reconciliation of the Affiliate Fees due at the end of every quarter, the Company pays the Affiliate through bank transfer within thirty (30) days of every quarter in accordance with the current calendar year.
- d. The Company reserves the right to reject sales that do not comply with the terms of this Agreement.
- e. The Affiliate Fee shall be reduced in proportion to any claim or liability against the Company by customers. Affiliate agrees to refund to the Company any Affiliate Fee already paid to Affiliate under these circumstances.

#### 4. NON-EXCLUSIVITY

Both Parties to this Agreement acknowledge and agree that this Agreement and the arrangements described herein are intended to be non-exclusive and that each of the Parties is free to enter into similar agreements and arrangements with other entities. Affiliate shall be free to continue working for and taking on other such affiliate programs and the Affiliate need not obtain Company's approval for any such work.



Likewise, the Company can engage additional affiliates and does not need the Affiliate's approval to do so.

## 5. LIMITED LICENSE

Affiliate agrees to place one or more of the links or codes, logos, trademarks, and service marks (collectively, "**Marks**"). Pursuant to this Agreement, the Company grants Affiliate a limited, nonexclusive, non-transferable and revocable license to display the Marks on the Affiliate Website, and nowhere else, subject to the terms and conditions of this Agreement. The Affiliate may not use the Marks for any other purpose absent the express written consent of the Company. Affiliates may not change, add to or delete the Marks. Affiliate may not use the Marks independently of the links or codes for any purpose without the Company's express written consent; and Affiliate may not use or present the Marks in any manner that suggests the endorsement of or by any other goods, services, persons or entities without the express written consent of the Company.

In addition, Affiliate agrees to not (a) acquire or attempt to acquire, register or attempt to register, make a claim to or in any way use domain names, trademarks, service marks, keywords, handles, screen names or other forms of identification incorporating the Marks; or (b) not to use the Marks in a way that suggests that the source of the Affiliate Website is the Company. All intellectual property rights in and to the Marks, and any goodwill generated by Affiliate's use of the Marks shall enure solely to the benefit of the Company. Upon suspension of this Agreement, the rights granted herein may, in the Company's sole discretion, be suspended. Upon termination of this Agreement, the rights granted in this section shall automatically terminate.

## 6. RESPONSIBILITIES OF AFFILIATE

- a. The Affiliate must comply with the requirements of the Affiliate Programme including in particular any stipulations as to the nature and content of the Affiliate's Website and the use of the Company's and/or third-party trademarks and logos.



- b. The Affiliate shall not use the Affiliate Program for any unlawful purpose or in any way that could damage the Website and Services of the Company.
- c. The Affiliate shall comply with all applicable laws and regulations including without limitation (i) the data privacy and security laws and regulations applicable to the Affiliate's country of residence or Affiliate's Website visitors; (ii) consumer protection and unfair trading regulation and shall not engage in any fraudulent activities such as cookie stuffing or link interception.
- d. The Affiliate warrants that the Affiliate's website does not promote sexually explicit materials, violence, discrimination, illegal activities or incorporate any materials which infringe or assist others to infringe on any copyright, trademark or other intellectual property rights or to violate the law.
- e. It is the Affiliate's sole and exclusive responsibility to ensure that all legal requirements for the Affiliate's business are met. Such legal requirements, the responsibility of the Affiliate include, but are not limited to, ensuring that claims on Affiliate's Website with respect to Company's Services are true, accurate and may be legally stated, and ensuring all sales of Goods Services are lawful.
- f. The Parties agree that the rights and benefits held and received by the Company through the Affiliate under the Affiliate Program shall only be enforceable by the Customer through such Affiliate Program and upon the terms of the Agreement, and any liability in respect of any breach of such rights and benefits shall be determined solely in accordance with the terms of the Agreement.
- g. The Affiliate agrees to implement the tracking mechanism as directed by the Company to track the customers purchasing the Goods and/or Services directly as a result of this Affiliate Agreement.

## **7. TERM AND TERMINATION**

- a. This Agreement shall be effective on the date of acceptance of the Affiliate into the Affiliate Program by the Company and shall continue indefinitely until it is earlier terminated in accordance with the terms of this Agreement.
- b. Either party shall be entitled forthwith to terminate this Agreement by written notice to the other if:



- that other party commits any breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 10 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
  - an encumbrancer takes possession or a receiver is appointed over any of the property or assets of that other party;
  - that other party makes any voluntary arrangement with its creditors or becomes subject to an administration order;
  - that other party goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement);
  - anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to that other party;
  - that other party ceases, or threatens to cease, to carry on business; or
  - one party giving the other party thirty (30) days prior written notice
- b. For the purposes of clause 7(a), a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).
- c. Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.
- d. The rights to terminate this Agreement given by this clause shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

## **8. CONSEQUENCES OF TERMINATION**

Upon the termination of this Agreement for any reason:

- Affiliate shall cease to engage in the Affiliate Program to promote, market, advertise or solicit customers for the goods or services;



- the provisions of clause 8 shall continue in force in accordance with its terms;
- Affiliate shall have no claim against the Company for compensation for loss of rights, loss of goodwill or any similar loss (except unpaid Affiliate Fee);
- All outstanding Affiliate Fees due to the Affiliate at that time shall be settled in full within fourteen (14) days;
- subject as otherwise provided herein and to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.

## 9. CONFIDENTIALITY

- a. Affiliate shall treat as confidential all information which the Company may make available to it pursuant to this Agreement or the negotiations in respect thereof (the "**Confidential Information**") and shall not without the prior written consent of the Company :
  - exploit any part of the Confidential Information save as is reasonably necessary to enable it to sell the Goods and/or Services; or
  - disclose any part of the Confidential Information other than to its employees or customers (or potential customers) who need to know the Confidential Information for the purpose of this Agreement provided that:
    - i. such person is made aware prior to the disclosure of the proprietary and confidential nature of the Confidential Information; and
    - ii. such person owes an express duty of confidence to Affiliate, which Affiliate shall enforce.
- b. Affiliate may disclose, in general terms, relevant parts of the Confidential Information to customers and potential customers but only so far as is necessary for good faith to promote the sale of the Goods and/or Services.



- c. The Rights, the Confidential Information and all proprietary and intellectual property rights in the Goods and/or Services shall belong to the Company.
- d. Affiliate shall promptly notify the Company of any infringement of the Rights or Confidential Information of which it may become aware and shall at the request and expense of the Company take such action in respect of the infringement, or claim, as the Company may request.
- e. The Affiliate may do follow-up enquiries with its referred customers to confirm their purchase and to gather feedback about their experience with the Company's Goods and/or Services as supplied.
- f. The provisions of this clause 9 shall remain in force after the termination of this Agreement for any reason.

## 10. WARRANTY OF CAPACITY AND POWER

Affiliate Partner shall not make any representations, warranties, or commitments regarding the Company or other products or services offered by Wingify other than as expressly permitted in writing by the Company.

- a. Each Party represents and warrants to the other Parties that:
  - i. it has full authority, power and capacity to enter into and carry out its obligations under this Agreement;
  - ii. all necessary acts and things have been taken or done to enable it lawfully to enter into and carry out its obligations under this Agreement; and
  - iii. when executed, this Agreement will create obligations which are valid and binding on it and enforceable in accordance with their terms;
  - iv. Affiliate Partner's participation in the "Convert Ambassador Program" shall not be in conflict with any existing or future agreements or arrangements;
  - v. Affiliate Partner shall disclose all information to the Company relating directly or indirectly to the URL's, webpages, websites, blogs, social





media accounts, email domains, or the like, owned by the Affiliate Partner ("**Virtual Real Estate**");

- vi. Affiliate Partner shall not purchase advertisements that direct to Affiliate Partner's Virtual Real Estate which is competing with the Company's Services, including keywords, or shall not be a business in the domain "**Conversion Rate Optimization**";
- vii. Affiliate Partner shall not share "cookie stuffing" or pop-ups, false or misleading URL links as it shall be strictly prohibited;
- viii. Affiliate Partner shall not attempt to mask the referring Unique Tracking URL Link or its information;
- ix. Affiliate Partner shall not use the Unique Tracking URL Link to purchase the Company's Services for the Affiliate Partner's use;
- x. Affiliate Partner shall only use the Company's content with their expressed consent only on Affiliate Partner's Virtual Real Estate.

## **11. FORCE MAJEURE**

None of the Parties shall be liable for any failure or delay in performing any of its obligations under or pursuant to this Agreement if such failure or delay is due to any cause whatsoever outside their reasonable control, and they shall be entitled to a reasonable extension of the time for performing such obligations as a result of such cause.

## **12. GENERAL**

- a. Affiliates shall not mortgage, charge or assign any rights or transfer, delegate or subcontract the performance of any obligation under this Agreement without the Company's prior written consent.
- b. The relationship between the parties shall at all times be that of independent contractors. No employment, partnership or joint venture relationship is formed by this Affiliate Agreement. In view of this independent relationship, the Affiliate



shall not enter into any agreements on behalf of the Company, shall make no warranty either expressed or implied on behalf of the Company and shall not incur any expenses on behalf of the Company.

- c. All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement. Each party shall promptly notify any change of address to the others in writing. Any notice posted shall be deemed to have been received 3 days after posting, and any notice given in any other manner shall be deemed to have been received at the time when in the ordinary course it would have been received.
- d. No waiver of any rights arising under this Agreement shall be effective unless in writing and signed by a duly authorized signatory of the party against whom the waiver is to be enforced. No failure or delay by either party in exercising any right, power or remedy under this Agreement (except as expressly provided herein) shall operate as a waiver of any such right, power or remedy.
- e. If any provision of this Agreement should become illegal or void for any reason, the validity of the remaining provisions shall not be affected and the parties shall enter into negotiations in good faith to find a replacement for the provision which is of similar economic effect.
- f. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized signatory of each of the parties.
- g. Affiliates shall, at all times during the term of this Agreement, abide and comply with the provisions of [Non-Aligned Customer's Policy](#). The partnership shall be immediately revoked for non compliance.
- h. This Agreement sets out the entire agreement and understanding between the parties with respect to the subject matter hereof. This Agreement supersedes all previous agreements, arrangements and understandings between the parties with respect to the subject of this Agreement, which shall cease to have any further force or effect. It is agreed that:
  - neither party has entered into this Agreement in reliance upon any representation, warranty or undertaking of the other party which is not expressly set out or referred to in this Agreement, and all conditions,



warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law;

- no claim or remedy under this Agreement in respect of misrepresentation (whether negligent or otherwise, and whether made prior to, and/or in, this Agreement) or untrue statement made by the other party;
- This clause shall not exclude any liability for fraudulent misrepresentation.

### 13. LIABILITY

- a. Each party will indemnify, defend, and hold harmless the other party and its officers, directors, employees, and agents (collectively, the "**Indemnified Parties**") from and against all claims, demands, losses, damages, and liability, including, without limitation, all attorneys' fees, court costs, expenses, and other costs of investigation and preparation (collectively "**Liability**"), arising out of or in connection with the loss of life, bodily injury, personal injury, damage to property or any other loss or injury occasioned by reason of (i) the negligent act or omission or intentional misconduct of a party or anyone under a party's control, and/or (ii) any default by a party in the observance or performance of any of the terms or conditions of this Agreement to be observed or performed by the party; and/or (iii) should any of the Activities or the provision of or utilization thereof, as contemplated under this Agreement, infringe, violate, trespass or in any manner contravene or breach or constitute the unauthorized use or misappropriation of any intellectual property of any third party. The indemnity obligations in this Clause shall survive the expiration or earlier termination of this Agreement.
- b. The Company will not have any Liability for any indirect or consequential damages under this Agreement. The Company's entire Liability and Affiliate Partner's exclusive remedy for any claim, including but not limited to claims



based upon contract, warranty, negligence, or strict liability in tort arising out of the Company or arises out of or in connection with this Agreement shall be limited to direct damages caused by the Company's sole negligence in an amount not to exceed US\$1,000, (or the equivalent in local currency).

#### **14. NO RIGHTS UNDER CONTRACTS FOR THIRD PARTIES**

A person who is not a party to this Agreement shall have no right under any law to enforce any of its terms.

#### **14. GOVERNING LAW**

This Agreement and all matters arising hereunder or in connection herewith shall be governed by and construed and enforced in accordance with the laws of the State of Delaware without regard to any conflicts of laws principles to the contrary.

#### **15. CONSENT TO JURISDICTION AND FORUM SELECTION**

All actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State and federal courts located in the County of Kent, State of Delaware. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this section. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section, and stipulates that the State and federal courts located in the County of Kent, State of Delaware, have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy or proceeding arising out of or related to this Agreement. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this section by certified mail, return receipt requested, postage prepaid, to its address for the giving of notices as set



forth in this Agreement. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.