

MARKETING AFFILIATE AGREEMENT

This MARKETING AFFILIATE AGREEMENT (“Agreement”) contains the complete terms and conditions between us, ACCRETIVE CAPITAL LLC, a Delaware limited liability company d/b/a Benzinga.com (“Benzinga”), and you, regarding your request to participate as a marketing affiliate of Benzinga and the establishment of links from your website to ours, Benzinga.com.

BY PARTICIPATING IN THE BENZINGA MARKETING AFFILIATE PROGRAM, YOU ARE CONFIRMING THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.

1. Definitions. The following terms as used in this Agreement have the following meanings:

a. “We,” “Our,” “Us” means Benzinga.

b. “You,” “Your” and “Affiliate(s)” means the business, individual or entity seeking to participate in Our Affiliate Program, or that displays Our Products and Services or promotions on its website through the affiliate tracking code in exchange for receiving remuneration from Us for sales resulting from such display.

c. “Affiliate Site” means Your Internet site which displays Our Products and Services or promotions.

d. “Commission Fees” or “Commissions” mean the amounts You will be paid for each Qualified Purchase by a Referred Customer that you refer to Us under and in accordance with this Agreement.

e. “Our Products and Services” means our platform and related products and services that are available for purchase through Benzinga.com.

f. “Qualified Purchase” means a sale of Our Products and Services by Us to a Referred Customer that meets the criteria set forth in Section 6 of this Agreement.

g. “Referred Customer” means each new and unique customer referred from You through a Link (defined in Section 3 below) provided by or approved by Us that meets the criteria set forth in Section 6 of this Agreement.

2. Enrollment in Our Affiliate Network. To begin the process of becoming a Marketing Affiliate of Benzinga, You must complete and submit Our Affiliate Program Signup Request. We will evaluate Your application and We will notify You of Your acceptance or rejection in a timely manner. We may reject Your application if We determine (in Our sole discretion) that Your site is unsuitable for Our Affiliate Program. If We reject Your application, then You agree that You will not reapply to Our Affiliate Program utilizing the same domain name/URL associated with you application if that domain name/URL has already been

rejected and that You will not reapply using a different domain/URL name and then add or change Your reference to the previously rejected domain name/URL.

3. Promotion of Our Affiliate Relationship.

a. If We allow You to participate as an affiliate, then We will make available to You a variety of graphic and textual links (each of these links sometimes being referred to herein as “Links” or, individually, as a “Link”), that are subject to the terms and conditions of this Agreement. The Links will serve to identify Your site as a member of Our Marketing Affiliate Program and will establish a hypertext link from the Affiliate Site to Our website. The Links may connect to any area of Our website that We may designate from time-to-time (although commissions will only be issued on Qualified Purchases). In utilizing the Links, You agree that You will cooperate fully with Us in order to establish and maintain such Links.

b. You also agree that You will display on Your site only those graphic or textual images indicating a Link provided by Us or expressly approved in advanced in writing by Us. Your Affiliate Site will display such graphic and textual images prominently in relevant sections of the Affiliate Site. You agree not to use cookie placing techniques relating to referrals to Benzinga that set a tracking cookie with any Referred Customer without the Referred Customer’s knowledge. Any information with respect to Us that is displayed on Your Affiliate Site must be provided by Us or expressly approved by Us in writing in advance of any display.

c. EXCEPT AS PERMITTED ABOVE OR IN SECTION 14 BELOW, YOU MAY NOT AND ARE NOT AUTHORIZED TO (i) USE THE BENZINGA TRADEMARK, NAME OR ANY OF OUR OTHER INTELLECTUAL PROPERTY (OR ANY VARIATIONS OR MISSPELLINGS THEREOF OR OTHER TERM OR TERMS CONFUSINGLY SIMILAR TO ANY OF THE FOREGOING) (ALL OF THE FOREGOING, INCLUDING WITHOUT LIMITATION, THE “LINKS” AND THE “LICENSED MATERIALS” (DEFINED BELOW), ARE REFERRED TO HEREIN AS “OUR IP”), WITHOUT OUR EXPRESS PRIOR WRITTEN PERMISSION; (ii) USE OUR IP IN A DOMAIN OR WEBSITE NAME, IN ANY BIDS FOR KEYWORDS OR GOOGLE ADWORDS (OR SIMILAR PROGRAMS AT OTHER SEARCH ENGINES), IN ANY SEARCH ENGINE ADVERTISING (PAID OR OTHERWISE), IN ANY METATAGS, GOOGLE ADWORDS (OR SIMILAR PROGRAMS AT OTHER SEARCH ENGINES), KEY WORDS, ADVERTISING, SEARCH TERMS, CODE, OR OTHERWISE; (iii) CAUSE OR CREATE OR ACT IN ANY WAY THAT CAUSES OR CREATES OR COULD CAUSE OR CREATE ANY “INITIAL INTEREST CONFUSION” OVER THE USE OF OUR IP ON THE INTERNET OR IN ANY SEARCH ENGINE ADVERTISING. YOUR USE OF OUR IP IN ANY MANNER, OTHER THAN AS EXPRESSLY PERMITTED HEREUNDER (IN ADDITION TO BEING A BREACH OF THIS AGREEMENT) WILL CONSTITUTE UNLAWFUL INFRINGEMENT OF OUR TRADEMARKS, COPYRIGHTS OR OTHER INTELLECTUAL PROPERTY RIGHTS,

AND MAY SUBJECT YOU TO CLAIMS FOR DAMAGES (INCLUDING WITHOUT LIMITATION, TREBLE DAMAGES FOR KNOWING OR WILLFUL INFRINGEMENT), AND THE OBLIGATION TO PAY OUR LEGAL FEES AND COSTS IN CONNECTION WITH ANY ACTION OR PROCEEDING IN WHICH WE SEEK TO ENFORCE OUR RIGHTS UNDER THIS AGREEMENT OR WITH REGARD TO ANY OF OUR INTELLECTUAL PROPERTY RIGHTS.

d. All Links may be modified and/or expanded by Us from time-to-time throughout the term of this Agreement. You are not allowed to post any refunds, credits or discounts or other content concerning Us, unless We have given You prior written permission in each instance. You may only use coupons and discounts that are provided exclusively through Our Marketing Affiliate Program. Each Link connecting users of Your site to the pertinent area of Our site may in no way alter the look, feel or functionality of Our site. Any violations of the terms surrounding links, coupons, refunds, credits or discounts will constitute a material breach of this Agreement and may result in Your termination from Our Marketing Affiliate Agreement or withholding of Commissions.

4. FTC Endorsement Compliance. It is Our intent to treat Our customers fairly and to comply fully with all Federal Trade Commission regulations related to advertising. You agree that You will comply with all such applicable regulations. This includes, but is not limited to, Federal Trade Commission 16 CFR Part 255: Guides Concerning the Use of Endorsements and Testimonials in Advertising, which requires, among other criteria, that material connections between advertisers and endorsers be disclosed. This means that directories, review/rating sites, blogs and other websites, email or collateral that purport to provide an endorsement or assessment of an advertiser (in this case Benzinga) must prominently disclose the fact that financial or in-kind compensation is provided from the advertiser. Benzinga reserves the right to withhold commission fees and cancel this Agreement should We determine, at Our discretion, that You are not in compliance with the previously mentioned guide or any other FTC requirements that We deem relevant.

5. Order Processing. We will process orders placed by a Referred Customer who follows the Links from Your Affiliate Website to Benzinga.com[A2] . We reserve the right, in Our sole discretion, to reject subscription orders that do not comply with certain requirements that We may establish from time-to-time. All aspects of order processing and fulfillment, including Our service, cancellation, processing, refunds and payment processing will be Our responsibility. We will track the Qualified Purchases generated by Your Affiliate Website and will make this information available to You through Our website. To permit accurate tracking, reporting and Commission accrual, You must ensure that the Links between Your website and Our website are properly coded.

6. Commission Determination. Under Our Affiliate Program, You will be paid a Commission Fee for each Qualified Purchase by a Referred Customer that You refer to Us under and in

accordance with the terms of this Agreement. Each Referred Customer and each Qualified Purchase must meet the following criteria (the “Criteria”):

- a. Each Referred Customer must be a new and unique visitor to Us and must register by completing and submitting Our standard Subscription Form using a valid and unique account and billing information.
- b. Each Referred Customer must make a Qualified Purchase, and provide a valid payment for Our Products and Services. To generate a Commission Fee for You, each Referred Customer must be an active, qualified customer of Benzinga and must be up-to-date in all payments at the time the Commission Fees are processed and not have been subject to a refund, credit, cancellation, suspension or chargeback.
- c. Each Referred Customer must sign up in a manner, which in Our sole judgment, definitively establishes that the Referred Customer was referred directly from You to Us under this Agreement.
- d. Each Referred Customer must remain in compliance with Our Terms of Service, Acceptable Use Policy and other policies that are active at the time the Commission Fees are processed.
- e. Commission Fees may not be paid for the Qualified Purchase if the Referred Customer has been offered or received coupons, refunds, credits or discounts on Our Products or Services.
- f. If a Referred Customer has received a popup from Us with a discounted offer for Our Products and Services, while navigating away from Our site during their visit, then We will NOT pay Commissions on any resulting purchase.
- g. Benzinga reserves the right to withhold initial Commissions Fees for You until We have determined the legitimacy of Your Referred Customers and evaluated the cancellation rates of Your Referred Customers.
- h. We reserve the right to suspend payment of Your Commission Fees at any time and indefinitely, if We suspect fraud or other improper activity or a potential breach of any of the terms in this Agreement by You or a Referred Customer. We reserve the right to deduct from Your current and future Commission Fees any and all Commission Fees corresponding to any fraudulent, questionable and cancelled Benzinga purchases. Where no subsequent Commission Fee is due and owing, We will send You a bill for the balance of such refunded purchase upon termination of the program or termination of the Referred Customer and You will remit payment within ten (10) days of Your receipt of the same.
- i. Benzinga, in its sole discretion, reserves the right to withhold indefinitely any Commission Fee, and/or to reverse, deny or reject any Commission Fee, for:

- i. Any account/sale that has not been in an approved status in good standing as an account of Benzinga for a period of at least thirty (30) days.
- ii. All commissions generated for accounts that may be fraudulent, including but not limited to the use of software that generates real and fictitious information.
- iii. If We deem orders to be fraudulent or see a pattern of potentially fraudulent activity, including, without limitation, where there are multiple accounts from the same customer, or referral of accounts that do not comply with this Agreement. We review account information (including site content) to assess referrals.
- iv. Altering Our Links in any way.
- v. Referred Customers that have been offered or received unapproved coupons, refunds, credits or discounts from You.
- vi. Engaging in any “black hat” marketing techniques, artificially submitting Referred Customers, using marketing practices that We deem to be unethical or likely to attract fraudulent signups.

j. We reserve the right to immediately cancel or withhold for later review any Commission Fee based on the foregoing or that otherwise fails to meet the Criteria. It is Your responsibility to monitor the payment, denial and withholding of Commission Fees. We are not obligated to actively notify You of the status of Your Commission Fees. If You have a question about a Commission Fee that has been cancelled or withheld, then You have thirty (30) days from the day the payment was due to contact Us to discuss or reclaim the Commission Fee. Any changes to decisions about cancelled or withheld Commission Fees are strictly at Our discretion.

k. Commissions for any Referred Customer who is associated with any Benzinga reseller, referral or other program may be removed from Your payment. In other words, You may not receive double commissions or compensation.

l. Any attempt by You to manipulate, falsify or inflate Referred Customers, Qualifying Purchases or Commission Fees, to intentionally defraud Us or violate of any of the terms of this Agreement constitutes immediate grounds for Benzinga to terminate this Agreement and will result in forfeiture of any Commission Fees due to You.

7. Commission Fee Accrual and Payments.

a. Subject to the terms of this Agreement, We will pay a Commission Fee equal to the specified percentage or dollar amount set forth in the Commission Report in Your Affiliate Console on a Qualified Purchase by a Referred Customer which occurs during the month for which such Commission Fee is being calculated. Commission Fees will be processed approximately 15 to 30 days after the end of the month in which they accrued.

b. Commissions will accrue and only become payable once You (i) provide all relevant tax and address documentation pursuant to Section 9 below and (ii) reach a commission level of \$50 (the "Commission Threshold") based on the commission rates stated on the Benzinga website, all as applied only to Qualified Purchases which occurred within three (3) months of the end of the calendar month in which the Qualified Purchases occurred. For example, if You provide sign-ups which result in Qualified Purchases that meet the Commission Threshold on January 10th, then You must provide all relevant tax and address documentation by April 30th of the same year in order for Commission Fees to accrue and become payable. All Qualified Purchases eligible to result in Commissions under this Section 7 must remain active and in good standing pursuant to the terms of this Agreement to remain eligible for accrual. Once a Commission has accrued under this Section 7, the amount of such Commission will be due and payable to You under the terms of Section 8. We reserve the right to change the Commission Threshold by amending this Agreement and will notify You for any such amendment pursuant to the terms of this Agreement.

8. Payment Forms/Types.

a. Commission Fees shall be paid based on the current information in Your Affiliate profile. Please notify us promptly of any change in Your address by updating Your profile information in Your Affiliate profile. You are responsible for informing Benzinga of Your desired Payment form/type. You can update or change desired payment form at any time by updating Your Affiliate profile. Changes to desired payment form may take up to two payout cycles to take effect. Benzinga, in its sole discretion, reserves the right to modify the terms of this Commission payment method or schedule at any time. Such changes shall take effect when posted.

b. You will have access to Our real-time Affiliate Program statistics and activity and specifically agree to file any tracking or commission disputes as well as any other disputes and discrepancies within 45 days after the end of the month in which the sale or event that is disputed occurred. Disputes filed after 45 days of the date on which the Qualified Purchase occurred will not be accepted by Us and You forfeit forever any rights to a potential claim on any such dispute.

9. Taxes/Address Changes.

a. It is Your responsibility to provide Us with accurate tax and payment information that is necessary to issue a Commission Fee to You. If We do not receive the necessary tax or payment information within 90 days of a Qualified Purchase that would otherwise trigger Commission Fees, then the applicable commissions will not accrue and no Commission Fees will be owed with respect to such Qualified Purchase.

b. You must provide us with a W8/W9 tax form.

c. You are responsible for the payment of all taxes related to the Commissions You receive under this Agreement. In compliance with U.S. tax laws, We will issue a Form 1099 to You if Your earnings meet or exceed the applicable threshold.

d. You are responsible for informing Us about changes to postal and e-mail addresses, as well as any changes to Your name, email address, contact information, tax identification number, or other personal information that will impact Our ability to issue You a valid Commission payment.

e. Any address changes must be made in the Affiliate profile at least 15 business days prior to the end of the calendar month in order for Commission Fees for that month to be sent to the revised address.

10. Reports of Qualified Purchases. You may log into Your Affiliate profile to review Your click-through and potential Qualified Purchases statistics on a daily basis. The potential Qualified Purchases shown in this report have not been reviewed to confirm they meet all criteria for Qualified Purchases. As such, Commission Fees may not be issued on all Referred Customers that appear in in Your Affiliate profile.

11. Obligations Regarding Your Site.

a. You will be solely responsible for the development, operation and maintenance of Your Affiliate Site and for all materials that appear on Your Affiliate Site. Such responsibilities include, but are not limited to, the technical operation of Your Affiliate Site and all related equipment; creating and posting product reviews, descriptions, and references on Your Affiliate Site and linking those descriptions to Our website; the accuracy and propriety of materials posted on Your Affiliate Site (including, but not limited to, all materials related to Our Products and Services); ensuring that materials posted on Your Affiliate Site do not violate or infringe upon the rights of any third party and are not libelous or otherwise illegal. We disclaim all liability and responsibility for such matters.

b. We have the right in Our sole discretion to monitor signups through Your Affiliate Site at any time and from time to time to determine if You are in compliance with the terms of this Agreement. If You are not in compliance, then We may terminate this Agreement immediately.

12. Our Responsibilities. We will be responsible for providing all information necessary to allow You to make appropriate Links from Your site to Our site. We will solely be responsible for order processing for orders/Qualified Purchases placed by a Referred Customer following a Link from Your site, for tracking the volume and amount of Qualified Purchases generated by Your site, and for providing information to You regarding Qualified Purchases statistics. We will be solely responsible for all order processing, including but not limited to payment processing, cancellations, refunds and related Benzinga service. Any

determination made by Benzinga regarding the foregoing will be binding absent manifest error.

13. Policies and Pricing. Referred Customers that buy Our Products and Services through will be deemed to be Our Customers. Accordingly, all of Our rules, policies, and operating procedures concerning Benzinga orders, Benzinga service and Our Products and Services sales will apply to those Customers. We may change Our policies and operating procedures at any time. For example, We will determine the prices to be charged for Our Products and Services sold under Our Marketing Affiliate Network in accordance with Our own pricing policies. Prices and availability of Our Products and Services may vary from time-to-time, from affiliate to affiliate, and from region to region. Because price changes may affect products that You have listed on Your Affiliate Site, You may or may not be able to include price information in Your product descriptions. We will use commercially reasonable efforts to present accurate information, but We cannot guarantee the availability or price of any particular product or service.

14. E-mails and Publicity. You shall not create, publish, transmit or distribute, under any circumstances, any bulk electronic mail messages (also known as “SPAM”) promoting Our Products and Services without prior written consent from Us for each and every day when any bulk mailing will occur. We, in Our sole discretion, reserve the right to reject each and every e-mail mailing. Additionally, You may only send e-mails containing an Benzinga affiliate link and or a message regarding Benzinga or Benzinga’s Marketing Affiliate Program to person(s) who have been previously contacted and who consented to the fact that You will be sending an e-mail containing Benzinga information or information about the Benzinga Marketing Affiliate Program. Failure by You to abide by this section or the CAN-SPAM Act of 2003, in any manner, will be deemed a material breach of this Agreement by You and end any and all rights You may have to any Commissions. If Your account has excessive traffic in a very short period of time as determined by Benzinga in its sole discretion, Your affiliate relationship may be terminated.

15. Licenses and Use of Our Logos and Trademarks.

a. Subject to the limitations set forth in Section 3 above and otherwise in this Agreement, We grant You a non-exclusive, non-transferable, revocable license to (i) access Our site through the Links solely in accordance with the terms of this Agreement and (ii) solely in connection with the Links, to use the Benzinga trademark and logo and similar identifying material relating to Us (but only in the form(s) that they are provided by Us) (collectively, the “Licensed Materials”), for the sole purpose of selling Our Products and Services on Your Affiliate Site and as approved in advance by Us. You may not alter, modify or change the Licensed Materials in any way. You are only entitled to use the Licensed Materials to the extent that You are a member in good standing of the Benzinga Marketing Affiliate Program.

b. You shall not make any use of any Licensed Materials for purposes other than selling Benzinga Products and Services, without first submitting a sample to Us for approval in writing. You agree not to use the Licensed Materials in any manner that is disparaging or that otherwise portrays Benzinga, any Benzinga Customer or any Benzinga employee or representative in a negative light. We reserve all of Our rights in the Licensed Materials and all of Our other proprietary rights. We may revoke Your license at any time, by giving You written notice. If not revoked, this license will terminate upon expiration or termination of this Agreement.

c. You grant to Us a non-exclusive license to utilize Your names, titles and logos, as the same may be amended from time to time (the "Affiliate Trademarks"), to advertise, market, promote and publicize in any manner Our rights hereunder; provided, however, that We will not be required to so advertise, market, promote or publicize the Affiliate Trademarks. This license will terminate upon the expiration or termination of this Agreement.

16. Term of the Agreement.

a. The term of this Agreement will begin upon Our acceptance of Your Marketing Affiliate Program request and will end when terminated by either party. Either You or We may terminate this Agreement at any time, with or without cause. You are only eligible to earn Commission Fees on Qualified Purchases occurring during the term, and Commission Fees earned through the date of termination will remain payable only if the orders for Our Products and Services are not cancelled and comply with all Terms laid out in this Agreement. We may withhold Your final payment of Commission Fees for a reasonable time to ensure that all Qualified Purchases are valid and payment from Referred Customers are legitimate as determined by Us in Our sole discretion.

b. If You violate this Agreement, then You will immediately forfeit any right to any and all accrued Commissions Fees and will be removed from the Our Marketing Affiliate Program.

c. Your participation in the Marketing Affiliate Program, and this Agreement, will be deemed automatically terminated immediately and all Commissions forfeited upon Your violation of any of the terms of this Agreement or of any applicable law or regulation having the force of law.

17. Modification. We may modify any of the terms and conditions contained in this Agreement at any time in Our sole discretion. Such modifications will take effect when posted on Our site. We, in Our sole discretion, reserve the right to notify You by e-mail and further reserve the right to withhold notification of any changes made to this Agreement. Modifications may include, but are not limited to, changes in the scope of available Commissions, Commission amounts/percentages, payment procedures, Commission Fee payment schedules and Marketing Affiliate Program rules. If any modification is unacceptable to You, Your only recourse is to terminate this Agreement. Your continued

participation in the Marketing Affiliate Program following Our posting of a change notice or new agreement on Our site will constitute binding acceptance of the change.

18. Disclaimers. WE MAKE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE MARKETING AFFILIATE PROGRAM OR ANY OF OUR PRODUCTS AND SERVICES (INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS, MERCHANTABILITY, NON-INFRINGEMENT, OR ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, DEALING, OR TRADE USAGE). IN ADDITION, WE MAKE NO REPRESENTATION THAT THE OPERATION OF OUR SITE WILL BE UNINTERRUPTED OR ERROR FREE, AND WE WILL NOT BE LIABLE FOR THE CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS, INCLUDING THE TRACKING OF INFORMATION ABOUT REFERRED CUSTOMERS DURING THE PERIOD OF INTERRUPTION.

19. Relationship of Parties. You and Benzinga are independent contractors and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on Our behalf. You will not make any statement, whether on Your site or otherwise, that reasonably would contradict anything in this Section.

20. Representations and Warranties. You hereby represent and warrant to Us as follows:

- a. This Agreement has been duly and validly executed and delivered by You and constitutes Your legal, valid, and binding obligation, enforceable against You in accordance with its terms.
- b. The execution, delivery, and performance by You of this Agreement and the consummation by You of the transactions contemplated hereby will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate (i) any provision of law, rule, or regulation to which You are subject, (ii) any order, judgment, or decree applicable to You or binding upon Your assets or properties, (iii) any provision of Your by-laws or certificate of incorporation, or (iv) any agreement or other instrument applicable to You or binding upon Your assets or properties.
- c. You are the sole and exclusive owner of the Affiliate Trademarks and have the right and power to grant to Us the license to use the Affiliate Trademarks in the manner contemplated herein, and such grant does not and will not (i) breach, conflict with, or constitute a default under any agreement or other instrument applicable to You or binding upon Your assets or properties, or (ii) infringe upon any trademark, trade name, service mark, copyright or other proprietary right of any other person or entity.
- d. No consent, approval or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made by You in

connection with the execution, delivery, and performance of this Agreement or the taking by You of any other action contemplated hereby.

e. There is no pending or, to the best of Your knowledge, threatened claim, action, or proceeding against You, or any affiliate of Yours, with respect to the execution, delivery, or consummation of this Agreement, or with respect to the Affiliate Trademarks, and, to the best of Your knowledge, there is no basis for any such claim, action, or proceeding.

f. During the term of the Agreement, You will not include in Your Affiliate Site content that is, in Our opinion, unlawful, harmful, threatening, defamatory, obscene, harassing, racially, ethically or otherwise objectionable.

g. You are at least eighteen (18) years of age.

h. Each Referred Customer and each Qualifying Purchase referred or submitted by You to Us, is valid, genuine, unique and not fraudulent and meets each of the Criteria for generating a Commission Fee as provided in this Agreement.

21. LIMITATION OF LIABILITY. WE WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, PROFITS OR DATA, ARISING IN CONNECTION WITH THIS AGREEMENT OR THE MARKETING AFFILIATE PROGRAM, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, OUR AGGREGATE LIABILITY ARISING WITH RESPECT TO THIS AGREEMENT AND THE AFFILIATE PROGRAM WILL NOT EXCEED THE TOTAL COMMISSIONS PAID OR PAYABLE TO YOU UNDER THIS AGREEMENT DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

22. Indemnification. You hereby agree to indemnify and hold harmless Us and Our subsidiaries and affiliates, and their directors, officers, employees, agents, shareholders, partners, members, and other owners, against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs and expenses (including reasonable attorneys' fees) (any or all of the foregoing hereinafter referred to as "Losses") insofar as such Losses (or actions in respect thereof) arise out of or are based on (a) any claim that Our use of the Affiliate Trademarks infringes on any trademark, trade name, service mark, copyright, license, intellectual property, or other proprietary right of any third party, (b) any misrepresentation of a representation or warranty or breach of a covenant and agreement made by You herein, or (iii) any claim related to Your Affiliate Site, including, without limitation, its development, operation, maintenance and content therein not attributable to Us.

23. Confidentiality. Each of the parties hereto agrees that all information including, without limitation, the terms of this Agreement, business and financial information, Benzinga and vendor lists, and pricing and sales information, will remain strictly confidential and will not be

utilized for any purpose outside the terms of this Agreement except and solely to the extent that any such information is (a) already lawfully known to or independently developed by the receiving party, (b) disclosed in published materials, (c) generally known to the public, or (d) lawfully obtained from any third party not under any obligation of confidentiality to the discloser hereunder. Notwithstanding the foregoing, each party is hereby authorized to deliver the copy of any such information (x) to any person pursuant to a valid subpoena or order issued by any court or administrative agency of competent jurisdiction, (y) to its accountants, attorneys, or other agents on a confidential basis, and (z) otherwise as required by applicable law, rule, regulation, or legal process including, without limitation, the Securities Exchange Act of 1933, as amended, and the rules and regulations promulgated thereunder, and the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

24. Independent Investigation. Your request acknowledges that You have read this agreement and agree to be bound by all its terms and conditions. You understand that We may at any time (directly or indirectly) solicit Benzinga relationships on terms that may differ from those contained in this Agreement. We may also solicit Benzinga relationships with entities that operate websites that are similar to or compete with Your website. You have independently evaluated the desirability of participating in the Benzinga Marketing Affiliate Program and are not relying on any representation, guarantee or statement other than as set forth in this agreement.

25. Integration. This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes any prior discussions, negotiations, agreements and understandings.

26. Governing Law. The laws of the United States and the State of Michigan will govern this Agreement, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the federal or state courts located in Wayne County, Detroit, Michigan and You irrevocably consent to the jurisdiction of such courts. You may not assign this Agreement, by operation of law or otherwise, without Our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and assigns. Our failure to enforce Your strict performance of any provision of this Agreement will not constitute a waiver of Our right to subsequently enforce such a provision or any other provision of this Agreement.

I INDICATE MY APPROVAL OF THIS AGREEMENT AND DESIRE TO BECOME AN AFFILIATE UNDER THESE TERMS AND CONDITIONS BY COMPLETING AND SUBMITTING THE AFFILIATE PROGRAM SIGNUP FORM, BY SUBMITTING PROPOSED REFERRED CUSTOMERS OR QUALIFYING PURCHASES TO US UNDER OUR AFFILIATE PROGRAM AND/OR BY COLLECTING AND COMMISSION FEES FROM US.

