



BUSINESS REFERRER AGREEMENT

made by and between

360 CAPITAL LIMITED
("360 Capital")

And

(the "Business Referrer" or the "BR")

6th Floor, THE CORE, 62 ICT Avenue, Cybercity, Ebene, Republic of
Mauritius



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360 Capital Limited. Reg No. 176466
an authorised Investment Dealer (Licence No
GB20025862)

Directors:

K. Lutchumun, S. Ramanjooloo, WC. Viljoen, P. Venter

1. Definitions and Interpretation

- 1.1. The headings of the clauses in this agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any clause hereof. Unless a contrary intention clearly appears
- 1.2. words importing
 - 1.2.1. any one gender include the other two genders;
 - 1.2.2. the singular include the plural and *vice versa*; and
 - 1.2.3. natural persons include created entities (corporate or unincorporated) and the state and *vice versa*;
- 1.3. the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
 - 1.3.1. "**Account**" means any account of yours or Joint Account, as applicable, opened with us for the purposes of executing Transactions with us in foreign exchange Commodities, CFDs or other Financial Instruments;
 - 1.3.2. "**Agreement**" means this business referrer agreement together with all schedules, written appendices, annexures, exhibits or amendments attached to it from time to time;
 - 1.3.3. "**Applicable Law**" means:
 - 1.3.3.1. the Financial Services Act of 2007, as amended, including all applicable board notices; and
 - 1.3.3.2. any other rules of a relevant regulatory authority or any other Applicable Laws of a relevant market and all other applicable laws, rules and regulations as in force from time to time;
 - 1.3.4. "**Business Day**" means a day (other than a Saturday or Sunday) on which banks generally are open for business in Mauritius;

- 1.3.5. "Business Referrer" or the "BR" denotes such client who has opened a trading account with 360 Capital and has been approved as a business referrer for the purposes of referring potential Clients to 360 Capital;
- 1.3.6. "BR Account" denotes a special real account belonging to a BR, onto which the Commission is credited;
- 1.3.7. "BR Code of Conduct" means the code of conduct for Business Referrers issued out to Business Referrers, from time to time and which forms part of this Agreement;
- 1.3.8. "BR ID" denotes an BR's unique identification number;
- 1.3.9. "FSC" means the Financial Services Commission of Mauritius;
- 1.3.10. "360 Capital" in means 360 Capital Limited, registration number 176466, a company incorporated under the laws of the Republic of Mauritius and an authorized investment dealer with License Number GB20025862 rendering intermediary services and whose details are more fully set out in Schedule 1 of the Client Agreement;
- 1.3.11. "Clients" refers to 360 Capital Account Holders who opened an Account with 360 Capital following a referral by the BR; and
- 1.3.12. "Referral Fees" denotes amount payable by 360 Capital to the BR for its Clients' trading operations;

- 1.3.13. "Referral Link" denotes a special link to 360 Capital's website containing a BR ID which prospective Clients will use to open an account with 360 Capital;

2. General Provisions

- 2.1. This Agreement sets forth the terms and conditions governing the relationship between the BR and 360 Capital, in terms of which:
- 2.1.1. the BR shall refer prospective Clients to 360 Capital; and
- 2.1.2. following the opening of an Account by the Client, 360 Capital shall pay the BR a Commission based on the turnover of the Client's Account.
- 2.2. In the event that a situation arises that is not covered by the Agreement, 360 Capital will resolve the matter on the basis of good faith and fairness and, where appropriate, by taking such action as is consistent with market practice. The BR agrees that in such instances 360 Capital's determination will be final.
- 2.3. It is recorded that this Agreement is entered into on a principal-to-principal basis. Nothing in this Agreement, whether express or implied, will be construed to create any relationship either of employee/employer, principal/agent, partnership, associate or any other relationship of a like nature, between 360 Capital and the BR and/or its employees.
- 2.4. Nothing in this Agreement, whether express or implied, will be construed as an appointment of the BR as a representative as defined in the FSC Act.
- 2.5. The parties agree that the BR is an independent contractor to 360 Capital and will not be deemed an employee, or a Representative of 360 Capital as defined in the FSC Act, for any purpose whatsoever. Without limiting the foregoing, all income taxes arising from or in connection with professional fees paid by 360 Capital to the BR for the services provided under this Agreement shall be borne by the BR. Neither party nor such party's directors, officers, employees or agents, shall bind or make any commitment on behalf of the other party.
- 2.6. The BR unconditionally accepts that all the Clients referred to 360 Capital are the clients of the Company.

3. Commencement and Duration

- 3.1. This Agreement becomes effective as soon as the BR opens a BR Account, using the BR Account opening procedure in place from time to time, and agrees to the terms of this Agreement by opening such account.
- 3.2. This Agreement is deemed valid, signed and functional after the BR Account is opened and shall remain valid for a year at the end of which the Parties may agree to renew the Agreement.

4. Duties of the BR

The BR shall perform the following functions only:

- 4.1. furnish prospective Clients with information regarding 360 Capital's product offering, website, promotions, special offers and other relative information only;
- 4.2. prior to referring the Client to 360 Capital, inform prospective Clients of the risks involved in trading CFDs and direct prospective Clients to 360 Capital's website for more information;
- 4.3. refer prospective Clients to 360 Capital by:-
 - 4.3.1. providing them with the Referral Link to enable Clients to contact 360 Capital and apply for an Account; or
 - 4.3.2. Providing 360 Capital with the prospective Client's name and contact details.
- 4.4. inform prospective Client of his/her BR status and privileges prior to referring the Client to 360 Capital; and
- 4.5. immediately inform 360 Capital of any changes in the BR's contact information.

5. Company's

Obligations

360 Capital is obliged

to:

- 5.1. provide the BR with all the necessary assistance to fulfil the obligations set forth in the Agreement;
- 5.2. pay out BR Commission under the conditions of this Agreement; and
- 5.3. provide the full range of 360 Capital's services as stated in the Customer Agreement to the Clients referred to it by the BR upon successful opening of the Client Account.

6. BR Restrictions

- 6.1. Under no circumstance is the BR permitted to:
 - 6.1.1. operate and introduce itself in interactions with prospective Clients in any other capacity other than that of a Client or a BR of 360 Capital;
 - 6.1.2. use the name of 360 Capital or its logo and any other branding, anywhere including advertising materials, forms, business cards, announcements and publications without written consent of 360 Capital;
 - 6.1.3. advise or make a recommendation to prospective Clients regarding the opening of an Account or the operation of such Account with 360 Capital. The BR may only furnish prospective Clients with the information set out in the Frequently Asked Questions for Business Referrers document;
 - 6.1.4. assume any responsibility on behalf of 360 Capital or place 360 Capital under any obligations;
 - 6.1.5. open real or demo accounts or complete Client Account applications on behalf of the Clients;
 - 6.1.6. accept funds from Clients on behalf of 360 Capital, or make deposits on behalf of Clients;
 - 6.1.7. Manage with discretion Client Funds and Accounts or represent to Clients that the BR can manage Client Funds and Accounts, unless such BR is a FSC licensed financial services provider authorised to render such

- discretionary financial services;
- 6.1.8. provide any advice to the Clients regarding trading strategies, or in any other way influence the Clients' decisions unless such BR is an FSC licensed financial services provider authorised to offer such advice to Client;
 - 6.1.9. publish or participate, or cooperate in publishing any materials in mass media; issue any newsletters, or assist in issuing or creating any content in newspapers, magazines or other mass media, blogs, Internet forums, social networks, etc, which may harm the positive image of 360 Capital;
 - 6.1.10. Undertake any commitments in the name of 360 Capital or bind 360 Capital with any commitments; and
 - 6.1.11. provide any guarantees and/or promises, or make any statements regarding any pay-outs or any agreements set by 360 Capital;
- 6.2. The BR is prohibited from using any fraudulent advertising methods to promote the 360 Capital. The BR is strictly prohibited from using the following:
- 6.2.1. APS (Active Promotion Systems);
 - 6.2.2. advertising on amoral (including pornographic) websites;
 - 6.2.3. advertising on religious websites;
 - 6.2.4. spam;
 - 6.2.5. advertising containing distorted services description;
 - 6.2.6. any other activities which might harm the positive impression of the Company;
 - 6.2.7. any other ways of fraudulent advertising.
- 6.3. The BR has the right to use the statistical data provided by the 360 Capital to analyse the effectiveness of advertising campaigns subject to the following restrictions that a BR may not:
- 6.3.1. register and/or use domains containing **"360 Capital"**; **"360Capital"** **"360"**; **"360C"** or any other variants of it.

- 6.3.2. register and/or use a business name containing **"360 Capital"**;
"360Capital" **"360"**; **"360C"** or any other variants of it.
- 6.4. 360 Capital reserves the right to cancel affiliate commission without warning, in cases where the use, as a tool to attract, is a search engine, such as YANDEX, GOOGLE, etc. using the keyword "360 Capital"; "360 Capital" "360"; "360C" and all the possible variants of it, including consonant words in any language.
- 6.5. In case of a lawsuit(s) filed against 360 Capital due to the BR's breach of the terms and conditions of this Agreement (including unauthorized actions or statements made by the BR), the BR shall be held liable for all losses incurred by 360 Capital. Losses shall be understood as expenses 360 Capital has incurred or will incur restoring its rights and interests (real losses), as well as the revenue 360 Capital would have earned under normal business conditions (lost profit), damage of property interests or 360 Capital's business reputation as a result of BR's failure to fulfil its obligations. The BR has no right to dispute the amount 360 Capital claims for damages.
- 6.6. If the BR breaches the terms and conditions of the Agreement (fully or partially), 360 Capital reserves the right to block the BR's accounts (whether demo or real) and exclude Clients from the BR's Client list until the BR compensates the losses suffered from the breach of the Agreement. 360 Capital is entitled to recover losses inflicted by the BR with money payable to the BR under the BR Agreement and also under the Client Agreement and its corresponding regulations.
- 6.7. *If the BR breaches the terms and conditions of the Agreement set out in clauses 6.1.3; 6.1.5; 6.1.6; 6.1.7; 6.1.8 ;and 6.1.11. above. the BR shall be in contravention of the Applicable Laws and 360 Capital shall be obliged to terminate the Agreement and report such BR to the FSC and any other relevant authorities.*
7. 360 Capital Rights
- 360 Capital reserves a right to:
- 7.1. exercise control over the BR's activities under the provisions of the Agreement.

- 7.2. request detailed reports from the BR on the latter's fulfilment of the provisions of the Agreement.
- 7.3. void the Agreement in case the BR fails to attract 5 active clients within 90 days since registration.
- 7.4. void the Agreement in case the BR's clients' total deposits are lower than USD \$ 500 within 3 months.
- 7.5. exclude client(s) from the BR's referrals (clients) list.
- 7.6. modify Commission and pay-outs conditions. Such modifications are subject to prior written notification.
- 7.7. inform the clients, registered under the BR that the BR receives Commission for their trades (without disclosing any BR data such as any personal information and/or information related to the amount of Commission earned/paid out).
- 7.8. void the Agreement in case of BR's failure to meet its provisions.
- 7.9. Should a BR use fraudulent customer acquisition methods, 360 Capital reserves the right to void the Agreement and cancel (partially or completely) the BR Commission.

8. Limitation of liability

Under no circumstances shall the company be liable or bear any responsibility for BR's actions taken in contravention of this Agreement or any consequences thereof.

9. BR Compensation

As consideration for the BR's referral services and all other obligations of the BR hereunder, 360 Capital will pay the BR Business Referral Fees on actual business transacted with Clients, per the Fee Schedule contained in Annexure 1 of this Agreement.

10. Force Majeure

- 10.1. Neither Party hereof shall be held liable for the complete or partial failure to fulfil its obligations should this failure result from a force majeure event or

circumstance (including but not limited to fire, earthquake and other natural disasters, war or other military operations, blockades, acts of God, government regulations and other extraordinary and unavoidable circumstances beyond either Party's control).

- 10.2. Should the inability to either completely or partially fulfil obligations last more than three months, the Agreement will automatically be terminated.

11. Breach

- 11.1. In case of a breach of the conditions of this Agreement by the BR, 360 Capital reserves a right to block BR's Business Referral and personal trading accounts until all losses occasioned by the BR's breach have been recovered including any expenses incurred by 360 Capital in the resolution of the breach. For the avoidance of doubt 360 Capital shall be entitled to recover any losses from Business Referral Fees and any other compensation that was owed or is due to the BR from 360 Capital.
- 11.2. In case of any data match between an Introducing Broker and his/her referrals (such as, but not limited to address, email, phone, IP addresses, etc.) the referral will be excluded from an Introducing Broker's referrals list.
- 11.3. In the case where 2 two or more real accounts are traded on from the same IP address as that of the BR, such accounts will be considered affiliates (auto-referral), and no compensation shall be paid for trading on them. Further to this 360 Capital should any Client accounts not belonging to the BR be traded from the same IP address as the BR, 360 Capital shall launch an investigation and should the BR be found to be managing Client Accounts with discretion in contravention of this Agreement and the Applicable Laws, 360 Capital shall terminate this Agreement and Report the BR to the relevant Authorities.

12. Acceptance

Upon acceptance of the Agreement, the BR confirms that:

- 12.1. the BR is familiar with the terms and conditions of the Agreement;
- 12.2. the BR completely understands and agrees to all terms and conditions set forth by the Agreement; and

12.3. no circumstances might prevent the adoption of the Agreement.

13. Miscellaneous

13.1. Written notification in the Agreement denotes one of the following means of communication:

13.1.1. email;

13.1.2. information updates and notifications on 360 Capital website; and

13.1.3. the BR agrees that 360 Capital may use the BR's contact information, such as address, email and other personal information to send the BR letters and proposals.

13.2. Any correspondence (documents, announcements, notifications, confirmations, statements, etc.) shall be deemed received by the BR:

13.2.1. one hour after being sent by email;

13.2.2. one hour after the announcement is posted on the 360 Capital website;

13.2.3. the BR shall unconditionally and under all circumstances, without exception, act solely on behalf of his/her own. Conducting any business under the name of 360 Capital is a violation of the Agreement and will lead to immediate termination of the Agreement and the cancellation of any Commission payable to the BR.

13.3. Governing Law

This Agreement and all Transactions will be governed by and construed in accordance with Mauritian law

13.4. Jurisdiction

The BR hereby agrees that the Supreme Court of Mauritius will have jurisdiction to settle any Proceedings and submits to the jurisdiction of such courts (provided that this will not prevent us from bringing any proceedings against you in the courts of any other jurisdiction) and waive any objection which they may have at

any time to the laying of venue in respect of any Proceeding brought in any such court and agrees not to claim that such Proceeding has been brought in an inconvenient forum or that such court does not have jurisdiction over it.

THIS IS A LEGALLY BINDING CONTRACT. DO NOT SIGN UNTIL YOU HAVE CAREFULLY READ ALL OF THE FOREGOING COMPLETELY AND COMPLETED THE BUSINESS REFERRED ACCOUNT APPLICATION.