

**DATE: April 27, 2023**

**VERSION: 1.1**

## **HIGH 5 ENTERTAINMENT AFFILIATE PROGRAM TERMS AND CONDITIONS**

### **1. INTRODUCTION**

This Affiliate Program Agreement (the “Agreement”) sets out the Terms and Conditions agreed between:

(1) High 5 Entertainment, LLC (the “Company”), a company duly registered under the laws of the State of New Jersey with registration number 0450694623, having its registered address at 1200 MacArthur Boulevard, New Jersey, NJ 07430, inclusive of its parent entities and any sister entities sharing majority common ownership,

and

(2) the person/entity/company set out on the relevant application form (the “Affiliate”) requesting access to the Company’s Affiliate Program (the “Affiliate Program”), as they relate to the Affiliate’s Application to and, upon approval by the Company and signing of an Insertion Order Agreement, participation in the Affiliate Program.

By filing and submitting the relevant application form (“Affiliate Application”), the Affiliate accepts and agrees to comply with all the following Terms and Conditions and with all Applicable Legislation.

The Company owns and operates H5C Group Websites and Applications through which it offers its products and services, including social casino games. The Affiliate maintains and operates the Affiliate Site(s) through which it conducts its marketing and referral business.

The Company and the Affiliate shall be individually referred to as a “Party” and collectively referred to as the “Parties.”

### **2. DEFINITIONS**

"Affiliate" means you, the person or party, as the case may be, that requests access and is granted access to the Affiliate Program following the approval by the Company of an Affiliate Application.

"Affiliate ID" means the definition set forth in Section 5.2.

"Affiliate Application" means the form filled out by an Affiliate seeking participation in the Affiliate Program.

"Affiliate Commissions" means the amount paid to the Affiliate in accordance with the payment structure agreed upon by the Parties in their individual Insertion Order Agreements.

"Affiliate Program" refers to the program established by the Company, in which the Affiliate is promoting and marketing H5C Group Websites, creates links to be included on the Affiliate Site(s) given by such H5C Group Websites and will receive compensation as agreed upon individually by the Parties in their respective Insertion Order Agreements.

"Affiliate Site(s)" means one or more sites that are operated and maintained by the Affiliate.

"Applicable Legislation" means any law, enactment, regulation, regulatory policy, guideline, and requirement of any relevant government authority (including good practice codes) applicable to a Party and/or to any of the activities of a Party.

"Confidential Information" means any information of commercial or intangible value relating to the Company (or any of the companies falling within the same group) such as, but without limitation, financial reports and condition, trade secrets, Intellectual Property Rights, know-how, prices, business information, products, strategies, databases, information about new customers, other customers and users of H5C Group Websites, technology, marketing plans and manners of operation, or any information or material that by its very nature would be generally understood to be proprietary and nonpublic..

"Fraudulent Activity" means a deceptive act or omission which is, in the sole discretion of the Company, performed in order to secure a real or potential, unfair or unlawful advantage; or any conduct that the Company, in its sole discretion, determines to be fraudulent, deceptive or dishonest, which shall include, but shall not be limited to, fraudulent credit card transactions, chargebacks, match betting, false or automated account creation and any collusion or cheating by an Affiliate or a Customer.

"Fraud Costs" means any costs, damages, or losses, suffered by the Company, arising from a direct or indirect result of Fraudulent Activity.

"H5C Group Website/s" shall mean the website/s with domain name [www.high5casino.com](http://www.high5casino.com).

“Intellectual Property Rights” means any copyrights, trademarks, service marks, domain names, brands, business names, utility brands, inventions, patent applications, and registrations of any of the aforesaid and/or any other similar rights of this nature relating to the H5C Group Websites or Confidential Information.

“Insertion Order Agreement” means the signed Agreement between High 5 Entertainment, LLC and the Affiliate which outlines specific commercial terms of their individual relationship.

"New Customer" means a natural person who meets all of the following conditions: (a) is at least 18 years old and is eligible to create an account on an H5C Group Website per the H5C Terms of Use; (b) is directed to an H5C Group Website by the Affiliate and is linked to the Affiliate’s Affiliate ID; (c) successfully opens a new H5C User Account on an H5C Group Website in accordance with the H5C Group Website’s applicable Terms of Use; (d) has not had a previous account on any H5C Group Website; and (e) makes a purchase through their H5C User Account on the H5C Group Website that meets the minimum purchase price agreed upon between the parties in their individual Insertion Order Agreement within the agreed upon time-frame from the date of account registration. A New Customer shall exclude the Affiliate, its employees, relatives and/or friends.

“Personal Data” means any information relating to any person, whether individual or legal that is or may be identified from time to time (directly or indirectly). It includes without limitation any and all information in relation to New Customers and/or Affiliates.

### **3. AFFILIATE CONDITIONS OF APPROVAL**

3.1. The Company will review the Affiliate Application sent by the Affiliate and will inform the Affiliate via email whether the Affiliate Application has been approved or declined. The Company reserves the right to decline any Affiliate Application without specifying any reasons.

3.2. It is the Affiliate’s sole obligation to ensure that any information it provides the Company in the Affiliate Application is correct, and to update the Company to keep such information up to date at all times. To become a member of our Affiliate Program the Affiliate must accept these Terms and Conditions by completing and submitting the Affiliate Application. The Affiliate Application will form an integral part of the Affiliate Agreement and reliance upon the information in the Affiliate Application is a material condition to acceptance within the Affiliate Program. The Company will, in its sole discretion, determine whether or not to accept an Affiliate Application and such decision is final and not subject to any right of appeal.

3.3. The Company may require, and the Affiliate must provide, supporting documentation as a verification check of the information represented in the Affiliate Application. This documentation

may include but is not limited to: bank statements, individual or corporate identity papers and proof of address. The Company may, at its sole discretion, conduct further verification checks at any time during the term of the Affiliate Agreement and require additional documentation from the Affiliate. The Affiliate's failure to cooperate with the Company in connection with the verification checks, or failure to produce valid documentation, or failure to otherwise conduct itself in a reasonable manner in light of the Applicable Legislation, shall allow the Company to terminate the Affiliate's participation in the Affiliate Program immediately. In such case, the Affiliate shall not be entitled to claim any Commission that might have otherwise accrued during the intervening time.

3.4. The Affiliate represents and warrants that upon submission of the Affiliate Application, through approval of the Affiliate Application, and while it remains within the Affiliate Program, it possesses the legitimate right to enter into this Agreement and to carry out all and any obligations under this Agreement.

3.5. The Affiliate confirms that it maintains, has acquired and made all the necessary registrations, permits, authorizations and licenses that may be required for this Agreement, as required by the Applicable Legislation, and the Affiliate fully understands and accepts the Terms and Conditions of this Agreement.

3.6. Upon approval of the Affiliate Application and admission to the High 5 Entertainment Affiliate Program, the Parties will sign an Insertion Order Agreement outlining the specific commercial elements of the individual Affiliate's involvement in the program including, but not limited to, compensation, term, and any other specifically negotiated terms.

#### **4. AFFILIATES RESPONSIBILITIES AND OBLIGATIONS**

4.1. By agreeing to participate in the Company's Affiliate Program, the Affiliate is agreeing to use its best efforts to actively and effectively advertise, market and promote the H5C Group Websites in accordance with the provisions of this Agreement, all Applicable Legislation and the Company's instructions from time to time.

4.2. The Affiliate will ensure that all activities undertaken by it, under the Affiliate Agreement, will be in the Company's best interest and will in no way harm the Company's reputation or goodwill, or the reputation or goodwill of any of the companies falling within the same group of the Company. The Affiliate is marketing and bringing New Customers to the H5C Group Websites at its own expense. The Affiliate takes full responsibility for its own actions and the possible risks associated therewith.

4.3. The Affiliate may only use links to the H5C Group Websites using the approved Affiliate links, or other such material that has been submitted to this Affiliate Program and that the Company has approved from time to time. The Affiliate is solely responsible for the legality of its marketing content and distribution thereof. All the Affiliate's marketing regarding the H5C Group Websites must be appropriate, professional, and in accordance with this agreement and with all Applicable Legislation.

4.4. The Affiliate assures that the Affiliate Site(s) do not contain and will not contain any material that is discriminatory, abusive, libelous, illegal or in any way inappropriate.

4.5. The Affiliate will not market to under-aged persons or offer social casino gaming in an environment that is directed to children and youths. The Affiliate will not be directing marketing to any regions or countries where social casino gaming and its marketing is illegal. The Affiliate will not be controlling or marketing unlawful or fraudulent activity to the H5C Group Websites.

4.6. The Affiliate will not register any H5C User Accounts or make any minimum purchases in order to improve and/or increase his own Affiliate commission. This applies to all accounts, for their own personal or relatives' player account, friends, or other third parties, or by any other artificial or fraudulent way to improve or increase the Affiliate's contribution to the commission. Any of the aforementioned acts shall be considered Fraudulent Activity.

4.7. The Affiliate shall not create and present the Affiliate Site(s) in a way that could lead to confusion of H5C Group Websites and /or the Company. The Affiliate shall not suggest or give the impression that the Affiliate Site(s) is partially or totally created or owned by any of the H5C Group Websites.

4.8. The Company reserves the rights to suspend the Affiliate's participation in the Affiliate Program pending investigation into any purported Fraudulent Activity.

4.9. The Affiliate shall change all promotional material and/or tracking link(s) upon receiving official communication in writing from the Company. Such official communications may include updated bonus incentives, or other updated player incentive communications. The Company reserves the right to suspend the Affiliate's participation in the Affiliate Program for the Affiliate's failure to timely make such changes.

4.10. The Affiliate will only use the promotional banners, images and creative media which are supplied by the Company. The Affiliate agrees it will not create its own, or amend in any way whatsoever, creative media supplied to it by the Company without prior written consent to do so.

4.11. The Affiliate will not use any advertising layout or creative media (including banners, images, logos and/or any material containing) incorporating or in any way utilizing the Company's Intellectual Property Rights without the advanced written approval of the Company. If such

written approval is received, the Affiliate will not make any further alteration from the approved advertising layout or creative media, without further approval from the Company.

4.12. The Affiliate will use all reasonable commercial endeavors to market the Affiliate Site(s) in the Territory.

4.13. If the Affiliate wishes to send any direct marketing communications to individuals (including but not limited to email, sms and/or push notifications) which include any reference to the Company and/or the H5C Group Websites and/or the Company's Intellectual Property Rights the Affiliate must first obtain express permission from the Company in order to send such direct marketing communications. If such permission is granted, the Affiliate must then ensure:

4.13.1. To obtain each and every intended recipient's express consent to receive marketing communications and that such individuals have not opted out of receiving such communication.

4.13.2. All marketing communications shall clearly (i) identify the sender of such communications, (ii) include the Company and related brand, and (iii) indicate the manner through which the individual may unsubscribe from further marketing communications.

4.13.3. To comply with all Applicable Legislation including all legislation relating to data protection, privacy and marketing.

4.13.4 To immediately notify the Company if the Affiliate receives a complaint from an individual or an Authority relating to the Affiliate's marketing practices or/and where there is a breach of this Clause 4.13.

## **5. THE COMPANY'S RESPONSIBILITIES AND OBLIGATIONS**

5.1. The Company will convey all the necessary information, Affiliate links and marketing material to the Affiliate.

5.2. The Company will report to the Affiliate the exact numbers of earnings generated from the Affiliate links, such as Affiliate Commissions as agreed upon by the Parties in their Insertion Order Agreements. All of the Affiliate's New Customers will be connected with a unique identification code (*i.e.*, Affiliate ID) for monitoring purposes.

5.3. The Company will pay Affiliate Commissions in accordance with the Terms of their individual Insertion Order Agreements.

## **6. THE COMPANY'S RIGHTS**

6.1. The Company may refuse at any time any New Customer, may close a New H5C User Account if the Company believes that it is necessary to comply with the Company's policies, to protect the Company's best interests, or if the Company believes, in its sole discretion, that it must close a New Customer account in light of Applicable Legislation.

6.2. The Company reserves the right to determine, add and/or change its incentive programs, including bonuses, at any time and at its own discretion, and without the need for any prior notice to the Affiliate.

6.3. The Company reserves the right to remove inactive H5C User Accounts which may have an Affiliate ID, where the account is deemed inactive in accordance with the H5C Group Websites Terms of Use. For the avoidance of doubt, once a H5C User Account is deemed inactive and removed, such individual and the H5C User Account will no longer be a New Customer hereunder.

6.4. The Company reserves the rights to suspend or terminate any Affiliate for poor performance or failure to perform. Such poor performance may include, but is not limited to, standards such as an Affiliate that fails to generate a reasonable number of new customers after a reasonable amount of time, or any Affiliate that ceases to promote the H5C Group Websites in a manner and effort comparable to other Affiliates in the industry.

6.5. In the event of the Affiliate's suspected breach of this Agreement, the Company reserves the right to suspend any Affiliate's participation in the Affiliate Program for any such period as may be required for the Company to investigate the activities of the Affiliate and resolve the same.

## **7. AFFILIATE COMMISSION PAYMENTS**

7.1. Subject to the Affiliate's performance under this Agreement, the Affiliate shall be paid an Affiliate Commission in accordance with the commission structure agreed upon by the Parties in their individual Insertion Order Agreements.

7.4. The Affiliate Commission will be paid to the Affiliate by way of the payment method agreed upon by the Parties in the Insertion Order Agreement.. If an error occurs with an Affiliate Commission payment, the Company reserves the right to correct any error at any time, and perform a deficiency payment immediately or to collect the incorrectly performed over-payment.

7.5. Where a statement shows a balance owing by the Company to the Affiliate, the Affiliate shall immediately issue the Company with an invoice in respect of any fees due as set out in the statement in order to receive payment thereunder.

7.6 If the Affiliate disagrees with a reported Affiliate Commission, the Affiliate shall report it immediately to the Company within thirty (30) days, and shall indicate the grounds for any basis of disagreement. No disputes shall be considered after 30 days from issuance of the reported Affiliate Commission.

7.7. The Company reserves the right to suspend and/or void all Affiliate Commission if the Company has a reasonable basis to believe that any of the New Customers were directed in any way illegally, or if the Affiliate is in breach of any provision of this Agreement, or the Applicable Legislation.

7.8 The Affiliate may be liable to the Company for the amount of all received Affiliate Commissions that were based on Fraudulent Activity or falsified transactions, and further may be liable for any costs and Company losses related to these transactions (including legal fees and costs).

7.9 The Company may, at its own discretion, refrain from paying the balance of any Affiliate Commissions owed if the Company determines it should investigate that the relevant transactions have taken place in accordance with this Agreement.

7.10 The Affiliate is responsible for any tax compensations, other compensations, costs and other potential domestic and international costs in connection with its activity under this Agreement. The Company shall not be liable for any of the listed or other unpaid costs or amounts that are requested from the Affiliate, and the Affiliate shall have no right to any compensation of any kind from the Company aside from any Affiliate Commission owed.

7.12 Due to Applicable Legislation, the Affiliate may be required to provide verification information and 'know your customer' documentation before an Affiliate Commission can be paid.

## **8. AFFILIATE SITE(S) AND LINKS**

8.1 The Affiliate agrees that any use of the Affiliate Program is at its own risk. The Company does not guarantee that the Affiliate Sites are available in the markets in which the Company operates. The Company is not liable for any lack of precision, errors, or for any loss, harm or damage caused by partial or total failures, delays and/or interruptions caused by the Affiliate and/or any other party on the H5C Group Websites or with the Affiliate Program.

8.2 During the Term of this Agreement, the Affiliate links shall be clearly displayed on the Affiliate Site(s) at all times, in the manner as agreed upon between the Company and the Affiliate. The Company has the right to review the Affiliate Site(s) to ensure compliance with this Agreement and its Terms and Conditions, and the Affiliate is responsible for providing all the



information required in order to ensure that the Terms and Conditions have been followed and adhered to.

## **9. TERM AND TERMINATION OF THIS AGREEMENT**

9.1 The Term of this Agreement as it applies to the Affiliate will be agreed upon by the Parties in their individual Insertion Order Agreements.

9.2 The Company may terminate this Agreement **immediately** by written notice:

- a) if the Affiliate does not generate any New Customers for a consecutive period of six (6) months, except in markets where affiliate activity is restricted;
- b) if the Company suspects – and has reasonable proof to this effect – that the Affiliate is engaging in Fraudulent Activity, illegal activities, or has breached the provisions of this Agreement;
- c) for any other provision in this Agreement which permits such termination.

9.3 In the event of termination of this Agreement, the Parties hereby agree on the following:

9.3.1 All rights and licenses, including Intellectual Property Rights, that have been licensed for use to the Affiliate under the Affiliate Program will be immediately terminated. The Affiliate will immediately remove all references to H5C Group Websites from its Affiliate Site(s) and other marketing channels, regardless of whether the marketing channels are commercial or otherwise. Upon termination, the Affiliate shall return to the Company, and subsequently destroy, all Confidential Information and/or proprietary material or information (including any and all copies thereof) belonging to the Company.

9.3.2 The Affiliate is only entitled to an Affiliate Commission that has been earned but not yet paid at the time of termination of this Agreement. However, in the event of termination due to Affiliate's violation of Applicable Legislation, or breach of any provision of this Agreement permitting immediate termination, the Company has the right to abstain from any further Affiliate Commissions until resolution of such issue(s). No Affiliate Commissions shall accrue from the date of termination of this Agreement.

## **10. CLOSURE OF A MARKET**

10.1 This Agreement shall not be applicable in the event the Applicable Legislation changes in a particular market, which require the Company and the H5C Group Websites to leave such market, and close the existing H5C User Accounts within that market. No Affiliate Commissions shall be payable effective as of the date of the change in Applicable Legislation requiring such closures.

## **11. INDEMNITY AND LIMITATION OF LIABILITY**

11.1 The Affiliate shall indemnify on demand and hold harmless the Company and each of its associated companies, associates, officers, directors, employees, agents, shareholders and partners from and against any and all losses, demands, claims, damages, costs, expenses (including without limitation consequential losses and loss of profit, reasonable legal costs and expenses and VAT thereon if applicable) and liabilities suffered or incurred, directly or indirectly, by the Company resulting from or in any way connected with:

- a. any breach, non-performance or non-observance by the Affiliate of any of the obligations or warranties specified under this Agreement;
- b. the Affiliate's gross negligence;
- c. any injury caused directly or indirectly by the Affiliate's negligent or intentional acts or omissions, or the unauthorized use of the Company's banners and links or this Affiliate Program;
- d. the Affiliate's use or abuse of the marketing material and the Company's Intellectual Property Rights;
- e. All charges and claims, that the Affiliate Site(s) or its information and/or files infringe a third party's patent, copyright, trademark, or other intellectual property rights, or claims of violation to a third party's right to privacy or publicity;
- f. Any activities carried out under the Affiliate's username and password;
- g. Any abusive, offensive, illegal material, which can be found under the Affiliate Site(s) and its files, folders or documents; or
- h. Any violation of Applicable Legislation.

There shall be no limitation of liability in connection with any of the indemnified actions set forth above.

## **12. CONFIDENTIALITY AND CONFIDENTIAL INFORMATION**

12.1 During the Term of this Agreement, the Affiliate may from time to time be entrusted with confidential information relating to the Company's (or any other company with the same group of companies) business, operations, or underlying technology and/or the Affiliate Program (including, for example, the Affiliate Commissions earned by the Affiliate under the Affiliate Program). The Affiliate shall not use any confidential information of any kind for its own commercial or other purposes, and may not share such confidential information with any person or with any third-party, either directly or indirectly without the prior written consent from the Company. The Affiliate will not use confidential information for any purposes other than for fulfilling the obligations of this Agreement.

12.2 The Affiliate's obligations of Section 12.1 shall continue for so long as such information remains nonpublic and protectable by law.

### **13. RELATIONSHIP BETWEEN THE PARTIES**

13.1 The Parties are independent contractors and nothing in this Agreement shall create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the Parties. The Affiliate shall have no authority to make or accept any offers or representations on the Company's behalf. The Affiliate will not make any statement, whether on its site or otherwise, that would contradict anything in this Agreement, or appear contrary to the statements in this Section 13.

### **14. MISCELLANEOUS**

14.1 Neither Party shall be liable to the other for delay or failure of this Agreement, its obligations and/or responsibilities, if the delay or failure arises from a reason out of the control of either Party (*i.e.*, force majeure), including labor disputes, strikes, industrial problems, acts of God, acts of terrorism, natural disasters, floods, lightning, power distribution and communication network failure, earthquakes, or other accidents. If a similar situation occurs unexpectedly, the Party that experiences this will be released from its obligations, on condition that the *force majeure* continues for a period exceeding thirty (30) days. Either Party may terminate this Agreement with immediate effect by sending a written notice to the other Party in the event a *force majeure* persists for more than thirty (30) days.

14.2 Nothing in this Agreement provides either Party with any rights or interests over any of the other Party's Intellectual Property Rights. For purposes of clarity, nothing in this Agreement shall be construed to any kind of license, assignment, transfer or anything else which is related to Intellectual Property Rights, except for limited license rights to use such Intellectual Property Rights, but only to the extent expressly provided herein. All Intellectual Property Rights created and/or deriving out of this Agreement are the sole property of the Company, and the Affiliate shall have absolutely no ownership rights therein. The Affiliate agrees to notify the Company immediately if it becomes aware of the misuse of the Intellectual Property Rights by any third party.

14.3 All notices relating to this Agreement shall be submitted to the Company in writing with attention to the designated Affiliate relationship manager within the Company. The Company shall provide any written notices to the Affiliate's e-mail address provided on its Affiliate Application.

14.4 The Affiliate shall not during the Term of this Agreement, and for a period of one (1) year thereafter, recruit, solicit, employ, or request services from employees or agents of the Company, without the prior written consent of the Company.

### **15. ASSIGNABILITY**

15.1 The Affiliate may not transfer this Agreement or any rights related to this Agreement to any other party without obtaining prior written consent from the Company. The Company may assign/transfer this Agreement, or any part of it, and its rights associated therewith, to any of its associated companies or any third-party. The Company does not waive its right to exercise such right to assign/transfer, notwithstanding the existence of any lack of supervision over the Affiliate's adherence to the Terms and Conditions of this Agreement.

## **16. CHANGES TO THIS AGREEMENT**

16.1 The Company reserves the right to change and/or modify all or any part of these Terms and Conditions, and this Agreement, at any time and at its sole discretion, provided written notice thereof is given by email to Affiliate's registered email address, and will be deemed to be served immediately when sent by the Company. If the Affiliate does not agree to such changes, the Affiliate may terminate this Agreement in accordance with its terms. However, should the Affiliate continue to participate in the Affiliate Program after the Company has made the changes/modifications, this will constitute binding acceptance of such changes/modifications.

## **17. SEVERABILITY**

17.1 If any of the provisions of this Agreement shall be found by any authority to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.

## **18. GOVERNING LAW**

18.1 The validity, construction and performance of this Agreement and any claim, dispute or matter arising under or in connection with this Agreement or its enforceability shall be governed and construed in accordance with the laws of the State of New Jersey. Each Party irrevocably submits to the American Arbitration Association ("AAA"), over any claim, dispute or matter under or in connection with the Affiliate Agreement and/or its enforceability.