

## Affiliate Agreement

Please Read this carefully before submitting the application (the “**Application**”) for participation in the Affiliate Program (the “**Affiliate Program**”) of Q multimedia Ltd., the developer and the owner of all rights, title and interest in and to a group of on-line English language teaching products and related products and services (individually and collectively the “**Product**”). This (“**Agreement**”) is between the individual submitting the Application or the entity on whose behalf the Application is being submitted (“**you**” and “**your**”) and Q Multimedia Ltd. (“**Q**”). By submitting the Application, you hereby accept and agree to all of the terms and conditions set forth in this Agreement as they may be revised or amended by Q from time to time. This Agreement will become binding when your Application is accepted by Q.

### 1. Process.

- 1.1 Q is using powerful tools to manage and administer the Affiliate Program (the “**Tools**”). The Tools (a) serve as the data interchange between you and Q; (b) be responsible for collecting Applications; (c) track your performance in the Affiliate Program; and (d) operate the Reporting Site. All personal information supplied by you in connection with the Affiliate Program shall be used by Q in a manner that is consistent with its Privacy Policy.
- 1.2 By submitting the Application you are expressing your desire to participate in the Affiliate Program through which you may promote certain Q web site links, Products, and promotions and are paid Commissions for Qualified Purchases (as those terms are defined in Section 7) that are made as a direct result of your promotion. As part of the Application you must submit the principal address of your web site (the “**Web site**”) upon which you desire to place the Q Links (as defined in Section 2). You represent and warrant that: (a) the information submitted in the Application is truthful and accurate; (b) the person submitting the Application is at least 18 years old; (c) in the event you are an entity, the person submitting the Application has the full right, power and authority to enter into this Agreement on behalf of such entity; and (d) the execution of this Agreement by such person, and the performance by you of your obligations and duties hereunder, do not and will not violate any agreement to which you are a party or by which you are otherwise bound. You acknowledge that Q makes no representations, warranties or agreements related to the subject matter hereof that are not expressly provided for in this Agreement. Q will evaluate the Application and will notify you of Q’s acceptance or rejection of the Application in a timely manner. Q may reject the Application or end your participation in the Affiliate Program if the Web site or your participation is deemed at any time and in Q’s sole discretion, to be unsuitable for the Affiliate Program. Unsuitable web sites include, but are not limited to, those that:
  - (a) display or provide content that is grossly offensive to the communities served by your Web site, including blatant expressions of bigotry, prejudice, racism, hatred or excessive profanity or post any obscene, lewd, lascivious, filthy, excessively violent, harassing or otherwise objectionable content;
  - (b) display or provide content containing pornographic material;
  - (c) sell or promote any products or services that are unlawful in the location at which the content is posted or received; introduce viruses, worms, harmful code and/or Trojan horses on the Internet;

- (d) post any content or otherwise infringe in any way or violate any copyright, patent, trademark, service mark, trade name, trade secret or other intellectual property right of Q or any third party;
  - (e) post any content that holds Q open to public scorn or ridicule; or
  - (f) post or disclose any personally identifying information or private information about children or any third parties without obtaining their consent in a legally sufficient way (or their parents consent in case of a minor). Unsuitable participation in the Affiliate Program includes, but is not limited to, actions that violate Q's rules relating to the Affiliate Program or these terms and conditions.
2. In the event that your Application is accepted by Q, you may use (to the extent provided in Section 5 below) the electronic graphic artwork, text and corresponding links to Q's Products (collectively the "**Q Links**") available at <http://www.q-affiliate.com> (the "**Reporting Site**") as necessary to participate in the Affiliate Program. The Reporting Site will identify the Q Links that will allow you the opportunity to earn a Commission ("**Commission Links**"). The Reporting Site may also give you the option of using Q Links that will not result in any compensation to you. Q will provide the HTML for the Q Links at the Reporting Site. It is the Q Links that will make it possible to track and report all of the Qualified Purchases (as defined in Section 7) acquired through your Web site, provided that cookies have not been disabled on the web browser being used to link to Q web site. It is your responsibility to integrate the Q Links into your Web site properly in accordance with the instructions available at the Reporting Site, and Q shall not be liable to you with respect to your failure properly to integrate the Q Links into your Web site, including to the extent such failure may result in any reductions of amounts that would otherwise be paid to you under this Agreement. You agree not to modify any of the Q Links in any way without the express written permission of Q. You may only display the Q Links on your Web site. If you have multiple web sites, you may submit one Application for multiple web sites to display the Q Links on such web sites. Without limiting the foregoing, and without Q's written consent, you shall not promote or otherwise announce the availability of the Q Links on your Web site anywhere other than within your Web site including, but not limited to, using the Q Links in e-mail and promoting or otherwise announcing the availability of the Q Links on your Web site through e-mail.
3. As may be revised by Q in its sole discretion from time to time. In the event of any discrepancy between this Section 3 and the applicable and most current version of Q site, the Keyword Link rules listed through Q site shall control solely with respect to Keyword Link rules; all other Sections of these Affiliate terms shall at all time remain in effect. Q will not pay commissions to affiliates who violate these trademark and paid search rules and terms, and may withhold commissions retroactively for such violations. You may not use Q trademarks or brands in any manner that, in our sole judgment, may diminish or in any way negatively impact them or their effectiveness.
- Bidding (a) Required:** If you use broad match, you must set the following terms as negative keywords: q group, qenglish, qenglish basic , qenglish intermediate , qenglish advanced, q master, qbusiness, qbusiness traveller , qkids **(b) Restricted:** You may not bid on Q trademarked terms and/or use Q trademarked terms or confusingly similar terms as paid search keywords. This includes bidding on Trademark + Language. **(c) Allowed:** You may use Q trademarked terms or variations in the ad text/search listings, but not in the display URL, except as expressly set forth below. **(d) Allowed:** Your ad copy can reflect that you are an authorized partner (not a reseller) of Q. **(e) Restricted:** You may not claim to be the

official Q, or use “Official Site” or similar claims in the ad copy. **(f)** Allowed: You may include Q trademarked terms as a folder or category name of a non-branded domain. **(g)** Restricted: You may not use any of Q’s URLs as display URL. **(h)** Restricted: You may not use any of Q’s trademarks, variations or misspelling thereof in the domain or sub-domain name. **(i)** Allowed: You may Direct Link, provided that you don’t use a Q URL as the display URL in your paid search ads. **(j)** Restricted: You may not promote a higher percentage discount in your ad copy than Q’s current affiliate promotion without the prior written permission of Q. If you have a rebate or cash-back site, you must clearly indicate so in your advertising. You are expressly prohibited from bidding on Protected Keywords, including, but not limited to: learning english , as well as any variations or misspellings, or confusingly similar terms. **Note:** This is not an exhaustive list of prohibited words, phrases, or combinations thereof. You are permitted, and Q recommends that you bid on Recommended Keywords, including, but not limited to: relevant keywords.

4. Q hereby grants to you a limited nonexclusive, nontransferable, revocable license to display on your Web site the Q Links solely as necessary for, and for the purpose of, promoting the Products associated with the Q Links as set forth at the Reporting Site and identifying you as a participant in the Affiliate Program. To the extent, if any, that Q Links contain Q’s trademarks, service marks or trade names, you shall not use such marks in a manner that might be deemed to create a unitary composite mark. You agree not to use the Q Links in a manner that is, or otherwise include materials on your Web site that are, disparaging of Q. Q reserves all proprietary rights in and to the Q Links not expressly granted herein. You acknowledge that all use of the Q Links by you inures solely to the benefit of Q and that you do not acquire any rights in the Q Links as a result of such use. You will remove any outdated Q Links immediately upon our request. We may update these guidelines at any time without prior notice to you and you will update immediately according to any revisions to these guidelines. You agree this license can be revoked at any time for any or no reason upon notice by Q to you, regardless of termination of this Agreement, and you agree upon receipt of such notice immediately to cease using all Q Links.
5. You are solely responsible for, and Q hereby disclaims all liability for, the development, operation and maintenance of, and all costs associated with, your Web site, any content thereon and any equipment thereof. You hereby agree that your Web site shall not, in any way, copy or resemble the look and feel of, or create the impression that it is part of Q’s or its subsidiaries’ web sites. You agree that your Web site shall not engage in any of the unsuitable web site activities listed in Sections 1 and 2 above, and you understand and agree that Q may, at its sole discretion, withhold commissions and/or terminate you from the Affiliate Program entirely for any violations of these or any other terms of this Agreement.

## **6. Marketing:**

- 6.1 You may market the Products only by means of your approved web site(s) (“**Approved Website**”). Q reserves the right to approve all content appearing on your Approved Web site which describes Q or the Product. You may nevertheless advertise the Products on web sites other than the Approved Web site, including on the results pages of search engines such as Google, Yahoo, MSN and AOL, provided that (a) all expenses incurred by you with respect to creating advertising materials and advertising the Products shall be borne exclusively by

you, (b) all such advertising complies with this Agreement, and (c) all such advertising is subject to the prior written approval of Q. In the event that Q determines, in the exercise of its sole judgment, that any description of Q or the Products appearing on your Web site or any advertising created by or for you is inappropriate for publication and should be removed, or otherwise violates this Agreement, you shall promptly remove such content following receipt of written notice from Q.

- 6.2 The Q Affiliate Program is not a reseller program. As an affiliate, you are authorized to refer prospects directly to Q; you are not authorized to buy and resell our Products. If you are interested in a reseller relationship with Q, you may contact us for more information.
- 6.3 You may only use coupons and codes that are provided by Q's Affiliate Program or that are on Q's affiliate landing page(s). All other coupon codes referring to Q must be removed from your sites, and you may not use coupon codes from any other source, including from Q's customer emails, print ads or TV spots.
- 6.4 All advertising in any medium is subject to the prior written approval of Q.

## **7. Commissions and Payments.**

- 7.1 Qualified Purchases. Sales in the Affiliate Program are limited to individual and home school Product sales. No Commissions will be paid for any other type of sales. Commissions will be paid to you for Qualified Purchases. A "Qualified Purchase" is any purchase: (a) of Q Products; (b) made via Q's web site (located at [www.qgroupplc.com](http://www.qgroupplc.com) or [www.The-Q-Store.com](http://www.The-Q-Store.com)) as a direct result of your promotion of the Q Products by linking from one of the Commission Links on your Web site; (c) shipped by Q; and (d) for which Q has received full payment. Notwithstanding the foregoing, no Commissions will be paid for purchases made by persons who have disabled the use of cookies within their web browsers and are subsequently not accounted for on the Reporting Site. Such persons are deemed to be direct customers of Q, will not be included on the Reporting Site, and will not contribute to the Commissions generated under the Affiliate Program. No Commissions will be paid for purchases made on any web site of Q other than [www.qgroupplc.com](http://www.qgroupplc.com) or [www.The-Q-Store.com](http://www.The-Q-Store.com).
- 7.2 Commissions shall be 40% of Net Sales for Qualifying Purchases ("**Commissions**"). Commissions will be adjusted downwards if (a) the Products are returned for refund at any time; or (b) Q determines that a purchase for which you received a Referral Fee was made fraudulently including, but not limited to, the use of stolen credit cards, general chargeback, and any other instances that cause us to credit a customer's account; or (c) Q determines that a purchase for which a referral fee was made involved actions you took in violation of this Affiliate Program. Q, at its sole discretion and upon notification to you, may prospectively change this method of compensation or add additional methods of compensation.
- 7.3 End users referred by you will be marked with cookies of a 30 day duration, provided cookies have not been disabled by the end user. Affiliates will not be compensated for any Qualifying Purchases made by an end user who can't be identified after the 30 day cookie has expired or been removed.
- 7.4 When the total Commissions due to you exceed a minimum amount set by you, Q will send you a check for the applicable amount (less any taxes required to be withheld under applicable law). If, at the end of the month, the Commissions due to you is less than the minimum amount, Q will roll your balance over to the next month. Q may choose to adjust the Fee for a particular period of time or for particular types of Q Products. Q will either provide you notice of such Fee changes to the e-mail address in your Application or will post notice of such change on the Reporting Site. You acknowledge that Q may offer a Fee to other participants in the Affiliate Program that is different than the Fee you receive.

Nothing in the foregoing shall limit Q's ability to change the minimum Fee contained herein in accordance with Section 10. Consistent with these terms and conditions, Q may withhold commissions, both retroactively and proactively, if it determines that you have violated the terms of this Affiliate Program.

- 7.5 Q's sole obligation in regards to remitting payment to you as described in Sections 7.1 through 7.3 above, shall be to mail such payment to the address provided in your Application or in the event your address changes, to the address thereafter submitted at the Reporting Site. You are solely responsible for assuring your address of record is current and correct. In the event a payment sent to such address is returned to Q for any reason other than an error in such address on the part of Q, you hereby waive any rights to receive such payment. Q shall not be liable for any payment to you if Q deems that you have engaged in any fraudulent or criminal activity in connection with the Affiliate Program, or that you have otherwise violated the terms of this Affiliate Program.
8. On an ongoing basis during the term of this Agreement, Q will provide you with a report accessible through a password protected portion of the Reporting Site. You are solely responsible for the security and use of your password. This includes responsibility for unauthorized access by third parties. You agree you shall not disclose your passwords to anyone not authorized to act on your behalf. You agree to notify Q immediately in writing of any breach in password security if you suspect any misuse of the passwords. Through the Reporting Site, Q shall provide you with a daily report setting forth the number of click-throughs to Q's web site that were generated from the Q Links on your Web site, and the number of Qualified Products purchased from Q through your Web site. The form, content and timing of the foregoing report may vary from time to time in Q's sole discretion.
9. Customers purchasing Q Products through the Affiliate Program will be deemed Q's customers. All rules, policies, terms, and conditions and operating procedures concerning customer orders, customer service, and Q Product sales will apply to those customers. Q may change its policies and operating procedures, including pricing, at any time. Q, at its sole discretion, will determine the prices to be charged for Products sold under the Affiliate Program in accordance with our own pricing policies. You may not include price information on your site unless pricing information is made available on links Q provides on its site (<http://www.q-affiliates.com>). Prices and availability of Q Products may vary from time to time. Q will use commercially reasonable efforts to present accurate information, but we cannot guarantee the availability or price of any particular Product.
10. Q may modify any terms and conditions in this Agreement, including any amounts payable as Commissions under Section 7, at any time in its sole discretion by posting a notice or a new Agreement on the Reporting Site, and such notice or new Agreement shall be effective immediately upon such notice or posting on the Reporting Site. Your sole remedy and recourse in the event any such modification is unacceptable to you is to terminate this Agreement, provided that Q shall pay to you all amounts due to you prior to your termination. Such termination by you in the event of a modification shall be effective immediately upon receipt by Q of notice thereof. Your continued participation in the Affiliate Program after such notice and/or posting shall constitute acceptance of the modifications.

11. You may not announce your use of the Q Links on your Web site unless you first receive Q's prior written approval of such announcement. Q may announce your use of the Q Links on your Web site in its sole discretion.
12. This Agreement shall be effective on the date that Q accepts the Application and shall continue until either party terminates this Agreement as set forth herein (the "**Term**"). Either party may terminate this Agreement at any time for any or no reason (i) in the case of termination by Q, to you at Q's option, at either the e-mail address contained in the Application or by posting such notice on the Reporting Site, and (ii) in the case of termination by you, to Q at the following email address: manager@q-affiliate.com. Q may terminate this Agreement immediately if (a) you breach this Agreement; or (b) you go into liquidation or file for bankruptcy or suffer any similar action in consequence of debt.

### **13. Limitations**

- 13.1 under no circumstances will either party be liable to the other party for indirect, incidental, consequential, special or exemplary damages (even if that party has been advised of the possibility of such damages), arising in connection with this agreement, even if either party has been advised of the possibility of such damages (collectively, "**disclaimed damages**"); provided that you shall remain liable to Q to the extent any disclaimed damages are claimed by a third party and are subject to indemnification pursuant to section 13.3. in no event shall the liability of Q in connection with this agreement for damages not excluded in the immediately preceding sentence exceed the amount paid or payable by Q to you under this agreement within the three (3) month period immediately preceding the accrual of such claim.
- 13.2 The affiliate program, the reporting site, Q's web site, the Q links, (collectively, "**subject matter**") are provided "as is" and "as available." except as expressly set forth in this agreement, neither party makes any, and each party hereby specifically disclaims any, representations or warranties, express or implied, including any implied warranty of merchantability or fitness for a particular purpose and implied warranties arising from course of dealing or course of performance.
- 13.3 You agree to defend, indemnify and hold harmless Q, its subsidiaries and referrals, and their respective officers, directors, agents, distributors, franchisees and employees against any loss, damage, expense, or cost, including reasonable attorneys fees (including allocated costs for in-house legal services) arising out of any claim, demand, action, suit, investigation, arbitration or other proceeding by a third party ("Liabilities") based on (a) your material breach of any covenant, duty, representation, or warranty of this Agreement, (b) materials contained on your Web site (including any allegation that such materials infringe a third party's proprietary rights), (c) any covenant, representation or warranty made by you regarding Q's web site or Q's Products or services, and (d) any claims that are otherwise related to your Web site and the content thereon.

### **14. Ownership of Intellectual Property.**

Q reserves all rights in the Q Software not expressly granted to you in this Agreement. You acknowledge and agree that Q own all right, title and interest in and to the Q Software (including all text, photographs, graphics, animation, applets, music, video and audio incorporated therein and any related user guides and documentation), the trademarks Q and confusingly similar marks related to our Products and URLs, including but limited to [www.qgroupplc.com](http://www.qgroupplc.com) and [www.The-Q-Store.com](http://www.The-Q-Store.com), [www.qgroup4u.com](http://www.qgroup4u.com), [www.qgroupus.com](http://www.qgroupus.com) etc., and the trade dress, look and feel of the Q Software, all of which

are covered by various protections including copyright, trademark, and trade secrecy law. If you suggest new features or functionality that Q, in its sole discretion, adopts for the Q Software, such new features or functionality will be the sole and exclusive property of Q. Q reserves the right, in its sole discretion and without incurring any liability to you, to update, improve, replace, modify and alter the specifications for and functionality of all or any part of the Q Software from time to time.

## **15. Confidentiality.**

- 15.1. Each party shall hold the Confidential Information of the other in confidence and protect the same with at least the same degree of care, but no less than reasonable care, with which it protects its own most sensitive confidential information. Each party shall use the Confidential Information of the other solely in connection with the exercise of its rights and the performance of its obligations under this Agreement, and shall restrict disclosure of and access to the Confidential Information of the other to such party's Personnel that require access to such Confidential Information in connection with this Agreement. Each party shall require its personnel to comply with the obligations of confidentiality set forth herein and shall be liable for any failure by its Personnel to so comply.
- 15.2. Each party's obligations pursuant to Section 15.1 shall not apply to Confidential Information of the other party that (a) was in the public domain prior to the Effective Date or subsequently came into the public domain through no fault of the receiving party; (b) was lawfully received by the receiving party from a third party free of any obligation of confidence; (c) was already in the lawful possession of the receiving party prior to receipt from the disclosing party; (d) is required to be disclosed by law, provided that the party seeking disclosure provides prior written notice of such disclosure to the other party and takes all reasonable and lawful actions to avoid and/or minimize the extent of such disclosure; or (e) the receiving party can show by a preponderance of documentary evidence was subsequently and independently developed by its employees, consultants or agents without reference to the Confidential Information of the disclosing party.
- 15.3. You agree that, in the event of your breach of Section 14 of this Agreement, Q may not have an adequate remedy solely in money damages and any such breach will cause Q irreparable harm. In the event of such breach, you agree that Q shall be entitled, without the requirement of posting a bond or other security, to equitable relief, including to an injunction or specific performance.

## **16. Miscellaneous.**

- 16.1 Sections 13, 14 and 15 shall survive the expiration or termination of this Agreement. Additionally, to the extent this Agreement is not terminated as a result of fraud relating to the Affiliate Program by you or otherwise as a result of your breach of this Agreement, Q's obligation to pay Fees shall survive for so long as is necessary to account for Fees generated from Qualified Products properly registered prior to the date of termination.
- 16.2 Jurisdiction. This Agreement is governed and construed in accordance with the laws of the state of Israel, excluding conflicts of law provisions, and the parties hereby submit themselves to the exclusive jurisdiction of Tel-Aviv in Israel for the resolution of any dispute arising out of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
- 16.3 Neither party will be liable for, or be considered in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a

result of any causes or conditions which are beyond such party's reasonable control and which such party is unable to overcome by the exercise of reasonable diligence. Both parties will be released from their respective obligations in the event of national emergency, war, prohibitive governmental regulations or if any other cause beyond the reasonable control of the parties renders performance of the agreement impossible whereupon all money due to either of the parties shall be paid immediately and you shall cease to promote the Product immediately.

- 16.4 Any failure of either Party to insist upon or enforce performance by the other Party of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement will not be interpreted or construed as a waiver or relinquishment of such Party's right to assert or rely upon such provision, right or remedy in that or any other instance; rather the same will be and remain in full force and effect.
- 16.5 You shall not assign this Agreement or any right, interest or benefit under this Agreement without the prior written consent of Q.
- 16.6 You acknowledge that a violation of this Agreement could cause irreparable harm to Q for which monetary damages may be difficult to ascertain or an inadequate remedy. You therefore agree that Q will have the right, in addition to its other rights and remedies, to seek and obtain injunctive relief for any violation of this Agreement. Except where otherwise specified, the rights and remedies granted to a party under this Agreement are cumulative and in addition to, and not in lieu of, any other rights or remedies which the party may possess at law or in equity.
- 16.7 You shall keep Q informed in advance of any notifications, reports, filings, registrations and other documents required to be submitted to any government authority in the Territory in connection with this Agreement or the Products.
- 16.8 You and Q 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 (a) have no authority to make or accept any offers or representations on our behalf and (b) make no statement, whether on your Web site or otherwise, that reasonably would contradict anything in this Section. You will be solely responsible for providing any salary or other benefits to your employees and consultants, making all appropriate tax, social security, Medicare and other withholding deductions and payments, and making all appropriate unemployment tax payments.
- 16.9 Except as expressly set forth herein, nothing in this Agreement shall be construed as giving any person or entity, other than the parties hereto and their successors and permitted assigns, any right, remedy or claim under or in respect of this Agreement or any provision hereof.
- 16.10 You acknowledge that you have read this Agreement and agreed to all the terms and conditions. You understand that Q may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this Agreement, and Q and its referrals and subsidiaries may operate web sites that compete with your Web site. You further agree that this document and any invoices arising under it, constitute the complete and exclusive agreement between the parties regarding their subject matter.

I have read the terms above and am ready to Apply.