

## Affiliate Agreement

This Affiliate Agreement partially describes the agreement between us, DX Products, and you, the Affiliate, as regards application for and participation in the Affiliate Programme operated by DX Products. This document covers the service and expectations provided by both DX Products and the Affiliate, while a separate document, the Affiliate Terms and Conditions, covers legal expectations and requirements for both parties.

This Agreement is made between

DX Products Limited, Company No 7254422, a company incorporated in and according to the law of England whose registered office is at Unit 1, Calder Vale Rd, Horbury, West Yorkshire, WF4 5ER, UK, hereinafter referred to as "DX Products",

And

"You" or "the Affiliate"

In order to participate in the Affiliate Programme operated by DX Products, you must read and accept the conditions of this agreement in full. If you are found to not be acting in accordance with this agreement, DX Products reserves the right to terminate your participation in the Affiliate Programme.

Continuing to register with the Affiliate Programme demonstrates your acceptance of this Affiliate Agreement in full. DX Products must subsequently review your application, and reserves the option to accept or decline your application for the Affiliate Programme.

The Affiliate Agreement and Affiliate Terms and Conditions may be amended or terminated at any time. While DX Products will endeavour to keep the Affiliate informed about any changes, the Affiliate is responsible for being aware of any amendments.

Nothing in this Affiliate Agreement shall create, or be deemed to create, a partnership or relationship of employer and employee between DX Products and the Affiliate.

## Definitions

To remove ambiguity, agreeing to this Affiliate Agreement entails that you accept the following definitions for key terminology:

1: **Linked Website:** Websites operated by DX Products for the purpose of trade, which are connected to the Affiliate Programme, allowing the Affiliate to generate sales via links from an Affiliate Website.

2: **Affiliate Website:** Any website used by the Affiliate in connection to the Affiliate Programme, regardless of ownership. This includes social media platforms, video sharing sites, as well as sites owned by the Affiliate.

3: **Traffic:** A collective term for any links or clicks to the Affiliate Website or Linked Website.

4: **Artificial Traffic:** A collective term for Traffic generated by means considered illegitimate, including, but not limited to, automatic clicks, robots, spam links, and any Traffic generated from illegal or malicious sources.

5: **Original Content:** Content in any format expressly created by, or commissioned by, the Affiliate. This explicitly does not include edits to existing content not created by the Affiliate.

6: **Stolen Content:** Content in any format being used by the Affiliate to generate Traffic or Artificial Traffic, where the content in question has not been created or commissioned by the Affiliate. This includes, but is not limited to, Original Video Content created by DX Products or other Affiliates, Original Image Content created by DX Products or other Affiliates, and the design of websites operated by DX Products and other Affiliates.

7: **Brand Terms:** Trademarks and key terms used by DX Products, including, but not limited to: 'Hydromax', 'Bathmate', 'DX Products', 'Hydro7', 'Hydromax7', 'HydroXtreme7', 'Bathmate Hercules', 'Bathmate X30' and 'Bathmate Xtreme X30'.

## **Actions**

If accepted into the Affiliate Programme, the Affiliate can carry out certain actions to generate traffic, earning a commission for any legitimate sales. An overview of the main actions engaged in by most Affiliates follows. This is not a complete and binding list, and DX Products encourages Affiliates to approach original ways of generating sales.

The Affiliate can:

- Create a link on an approved Affiliate Site to a Linked Website, allowing a visitor to find and purchase products.
- Use banners from the DX Products Affiliate Panel to drive Traffic to the Linked Website.
- Create reviews of products created by DX Products, sending visitors to the Linked Website via a link.
- Run email campaigns sending visitors to the Linked Website.
- Use Original Content on social media and video hosting platforms to drive visitors to the Linked Website.
- (for high-performing affiliates) Request Original Content from DX Products to drive further Traffic and sales.

## **Obligations of the Affiliate**

There are a number of conditions that the Affiliate must follow during their participation in the Affiliate Programme. Failure to comply may, at the discretion of DX Products, result in the removal or suspension of commissions, the Affiliate's removal from the Affiliate Programme or prosecution.

The Affiliate must:

- Comply with all aspects of local, international and EU laws.
- Be of at least 18 years of age.
- Provide complete, correct and up to date information about themselves, including full company details if the Affiliate is representing a limited company.
- Provide a full list of any Affiliate Websites to be used, including social media and video platform URLs.
- At request, be able to explain how they intend to drive legitimate Traffic and sales.
- Inform DX Products of any known or suspected Stolen Content, whether the source of the Original Content is the Affiliate, DX Products or another Affiliate.
- Ensure that the Affiliate Website is significantly different from the Linked Website, or other sites operated by DX Products.
- (If using Original Visual Content) Demonstrate that they have permission to use the likeness of any persons featured within said content.
- (If using video hosting platforms) Request and receive explicit permission from DX Products for each video uploaded by the Affiliate.

The Affiliate must not:

- Use any Stolen Content whatsoever.
- Except where approved, use Brand Terms from DX Products in the URLs or titles of any Affiliate Website.
- Use terms like 'Official' or otherwise endeavour to convince the visitor that the Affiliate Website is operated by DX Products.
- Generate any Artificial Traffic, whether to the Linked Website or to the Affiliate Website.
- Misrepresent their identity, except in cases where this is deemed acceptable by DX Products.
- Bid on any Brand Terms if carrying out a PPC campaign.
- Carry out any activities likely to bring DX Products into disrepute, or negatively impact the Linked Websites.
- Except where agreed, advertise or promote any offers or discounts for items sold by DX Products.
- (If using social media or video platforms) Repost any material created by DX Products or another Affiliate as their own. The Affiliate can share the material in question, but this must be done in a way enabled by the site in question's terms (as examples, retweets or playlisting videos), and must ensure that the original source is apparent.

### **Obligations of DX Products**

The Affiliate Programme uses certain software to accurately track sales credited to Affiliates, using a combination of unique link codes and cookies to operate accurately.

DX Products works to ensure that this software tracks performance as accurately as possible, and will pay the Affiliate for any legitimate sales created by Traffic generated by the Affiliate.

In the interest of avoiding fraud, where orders have been cancelled, DX Products will not pay any commission, typically disapproving this commission at the end of the month, prior to remuneration.

### **Remuneration**

When an Affiliate makes a sale, they are automatically informed by email, while any changes to the status of the sale in question also result in email notification.

Except in cases where an Affiliate drives enough sales to be paid bi-monthly, the Affiliate will be paid a commission for the sale on the first working day of the next month.

The Affiliate will be paid on the payment day after a minimum of \$75 in commissions have been earned.

Depending on the number of sales carried out by the Affiliate, and the manner in which they drive Traffic, the Affiliate will receive a certain percentage of commission on sales created by Traffic they generate. The Affiliate will be informed about any changes to the status of this percentage.

All business for the Affiliate Programme is carried out in US Dollars.

The Affiliate is responsible for the correct payment of any tax or other liability on payments made by DX Products.

### **Limits on DX Products' Liability**

- DX Products cannot guarantee or warrant the performance of DX Products's service or the links to any linked websites.
- DX Products shall not be liable for costs and damages incurred by the Affiliate arising out of this Agreement unless caused directly by the negligence of DX Products in providing its service. DX Products shall not in any circumstances be liable for indirect or consequential damages and costs incurred by the Affiliate for any reason whatsoever.

- DX Products will not be liable for defects in the service, interruptions in the accessibility to the service, infringements on data or loss of data on the information handling system, defects in the security system or viruses or other harmful software components in DX Products's service or for any damage caused by viruses or components to the service, the software and/or the Affiliate's website. DX Products shall not be liable for any error in the implementation of the links on the Affiliate's website or for the specified function of the links.
- DX Products shall not be liable in any way for the actions of any third party connected to the Affiliate, or for the fulfilment of any agreements or obligations made directly between the Affiliate and the third party.
- DX Products shall not be liable for any national or international laws broken by the Affiliate.

### **Term and Termination**

- This Affiliate Agreement shall come into force upon the Affiliate's acceptance into the Affiliate Programme, and is binding until such time as the Affiliate's participation in the Affiliate Programme ceases.
- The Affiliate is entitled to terminate this Affiliate Agreement with immediate effect at any time.
- DX Products is entitled to terminate or suspend the Affiliate from the Affiliate Programme if:
  - DX Products considers the Affiliate, their actions or the content of their website to be inappropriate in any way.
  - The Affiliate is found to be using Stolen Content from DX Products or another Affiliate.
  - DX Products is requested to do so by a relevant third party.
  - The Affiliate acts fraudulently or illegally in any way or the Affiliate generates or tries to generate Artificial Traffic to Linked Website or the Affiliate Website, or if the Affiliate in any other way breaches any of the provisions of this Agreement.
  - The Affiliate does not comply with any relevant law or regulation
  - The Affiliate has not generated any Traffic for a period of three (3) months.

### **Indemnity**

The Affiliate shall keep DX Products indemnified against any claims for damages or other claims for compensation arising from the contents of the Affiliate Website or any incorrect information given to DX Products by the Affiliate.

The Affiliate shall also compensate DX Products for any other damages or costs caused by the Affiliate's improper, negligent or unauthorised use of DX Products's service and technical problems or loss of data caused by the Affiliate on any site operated by DX Products.

## **Assignment of the Agreement**

The Affiliate may not assign or pledge his rights or obligations under this Agreement in whole or in part to any third party without the prior written consent of DX Products. The Affiliate agrees that DX Products may assign its rights and obligations under this Agreement and divulge or transfer information about the Affiliate's website, e-mail, etc to any third party.

## **Consent**

The Affiliate consents to the storage of all relevant personal information by DX Products, and to DX Products sending newsletters and other marketing communications to the Affiliate's e-mail address or other modes of contact.

## **Severability**

If any provision of this Agreement or part thereof should to any extent be or become invalid or unenforceable, the parties shall agree upon any necessary amendment of the Agreement in order to achieve the interests and objectives of the parties prevailing at the time of execution of the Agreement.

## **Intellectual Property Rights**

DX Products owns all copyrights, trademarks, intellectual property rights, know-how or any other rights connected to the service or software necessary for the service. The Affiliate does not acquire any rights or licences whatsoever under this Agreement other than to use links to Linked Websites on the terms of this Agreement. The Affiliate does not acquire any rights to marketing materials provided by DX Products.

## **Applicable Law**

- DX Products shall not be liable for the legality of DX Products's service in countries other than the United Kingdom. The Affiliate is solely responsible for the legality of the use of the service if the Affiliate is registered to DX Products's service from a country other than the United Kingdom or if the Affiliate's website is on a server in a country other than the United Kingdom.
- This Agreement shall be governed by, and construed in accordance with the laws of England.
- If any dispute arises out of this Agreement the Parties will attempt to settle it by mediation in accordance with the Model Mediation Procedure of the Centre for Dispute Resolution ('CEDR') or such other mediation procedure as the parties may agree in writing.
- To initiate the mediation one Party must give notice in writing ('the ADR Notice') to the other Party requesting a mediation in accordance with this clause. The mediation is to

take place not later 28 days after the giving of the ADR Notice. If there is any issue upon which the Parties cannot agree within 14 days after the giving of the ADR Notice, CEDR (or such other mediation body as the Parties may have agreed) will, at the request of either Party, decide the issue for the Parties, having consulted with them.