

REFERRAL AGREEMENT

This Referral Agreement (this “Agreement”), effective as _____ (the “Effective Date”), is by and between [COMPANY #1] with an address of [ADDRESS] (“Company”), and [COMPANY #2] with an address of [ADDRESS] (“Referral Partner”).

WHEREAS, Company and Referral Partner desire to enter into an agreement pursuant to which either party (hereinafter, “Referrer”) may, from time to time, refer leads to the other party (hereinafter, “Recipient”), pursuant to which Referrer would be entitled to a fee in the event that such lead resulted in generated business by Recipient for which Recipient received consideration;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Company and Referral Partner hereby agree as follows:

1. **Referrals.** Either party may from time to time refer potential customers (“Prospects”) to the other party, by completing and delivering - or by directing a Prospect to complete and deliver - a Prospect Referral form in the form attached hereto as **Exhibit A** either (a) online (b) via email or (c) by facsimile to Company or Referral Partner at the applicable notification provided in this Agreement or agreed to by Company or Referral Partner. If the Prospect is not an existing or former customer of Recipient, and has not already been contacted by or referred to Recipient, Recipient will notify Referrer within five (5) business days (via email or fax at the email address or facsimile number for Referrer provided in this Agreement) of its approval of the Prospect referral. If approval is not received within such five (5) business day period, the Prospect referral will be deemed rejected. Recipient shall have sole discretion related to its approval or rejection of a Prospect referral, including resolution of any dispute between two or more referrers, finders or other persons. Referrer is expected to cooperate with Recipient and, to the extent requested by Recipient, remain actively involved in Recipient’s sales campaign with respect to each Prospect referral and support Recipient’s solution as proposed by Recipient to the Prospect.

2. **Compensation.** In the event that Recipient enters into an agreement to provide services for an approved Prospect within [LENGTH OF REFERRAL FEE] years of such Prospect being referred to Recipient by Referrer, Recipient shall pay a fee (the “Referral Fee”) to Referrer in an amount equal to [REFERRAL FEE AMOUNT OR PERCENTAGE] of the income generated, payable by such approved Prospect and actually received by Recipient under the terms of the agreement between Recipient and the approved Prospect. The Referral Fee shall be considered complete consideration for all Referrals made during the Term. Referrer shall be responsible for any and all income and other taxes applicable to it in connection with its receipt of Referral Fee pursuant hereto and as an independent contractor of the Company. The Company will not be responsible for any expenses of the Referrer in the course of the performance of its obligations hereunder unless such expenses have been previously approved in writing by the Company.

Neither a Referral Fee nor any other amount shall be owed to Referrer in the event (i)

Recipient does not enter into an agreement to provide services for an approved Prospect, (ii) any agreement entered into between Recipient and an approved Prospect is cancelled by the Prospect, whether or not due to a default by Recipient, without payment being received by Recipient, or (iii) Recipient does not otherwise receive payment from the approved Prospect. Recipient shall remit the applicable Referral Fee to Referrer within thirty (30) days following its receipt of non-refundable payment from the approved Prospect. Referrer acknowledges that the Referral Fee is the only compensation Referrer shall receive in connection with Referrer's efforts and that all goodwill and benefit derived from such efforts shall inure to the sole benefit of Recipient.

3. **Term; Termination**. The initial term of this Agreement shall be for [INITIAL TERM] years from and after the Effective Date. This Agreement shall automatically renew for additional [RENEWAL TERM] terms following the expiration of the initial term, unless and until terminated by either party at any time upon ten (10) days written notice. Upon termination of this Agreement, lists of all approved Prospects introduced to either party hereto by the other shall be agreed to and signed by both parties and shall control any and all claims for Referral Fees from and after the termination of this Agreement, as applicable. Notwithstanding the termination of this Agreement, Referrer shall be entitled to Referral Fees in accordance with the terms of Section 2 above.

4. **Acting as Finder Only; Non-Exclusivity**. It is understood that Referrer is acting as a finder only and shall have no authority to enter into any agreements, obligations or commitments on Recipient's behalf, or to negotiate the terms of Prospects' agreements with Recipient. Referrer acknowledges that Recipient may enter into referral agreements or other similar arrangements with other parties and that Referrer shall have no rights under such agreements or to any fees for customers referred to Recipient by others or identified by Recipient itself.

5. **Relationship**. Company and Referral Partner acknowledge and agree that the relationship created by this Agreement is that of an independent contractor. Nothing contained in this Agreement shall be construed to constitute either party as an employee or partner or joint venturer of or with the other party. Neither party shall have any authority to bind the other in any respect, it being intended that each party hereto is and shall remain an independent contractor responsible for its own actions.

6. **Representations and Warranties**. Each of Referrer and Company represents and warrants that: (i) it has the right to enter into this Agreement and the right to grant the rights and licenses granted herein; (ii) it is not a party to any agreement, contract, or understanding that would prevent, limit or hinder its performance of this Agreement; (iii) during the Term, it will not enter into any contract, agreement or understanding which is in conflict or which would interfere with the full and complete performance of any of the duties or grants hereunder; and (iv) it is not a party to any pending claims or litigation which might affect its performance of this Agreement.

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY DISCLAIMS ALL

WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE MARKETING SERVICES PROVIDED TO THE OTHER PARTY AND OTHER OBLIGATIONS UNDERTAKEN HEREUNDER, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF Referrer HAS BEEN INFORMED OF SUCH PURPOSE), OR WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. FURTHER, THE COMPANY DOES NOT MAKE ANY WARRANTY THAT THE QUALITY OF THE SERVICES PURCHASED OR OBTAINED BY A CLIENT AFTER A REFERRAL WILL MEET SUCH CLIENT'S EXPECTATIONS.

7. **Indemnification.** Each party (an "Indemnifying Party") shall indemnify, defend and hold harmless the other party (the "Indemnified Party"), its affiliates, and each of their directors, officers, employees, and agents from and against all claims, suits and proceedings and any and all related liabilities, losses, expenses, damages and costs (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") incurred by the Indemnified Party, relating to or arising out of the breach by the Indemnifying Party of any of its duties, obligations, representations or warranties under this Agreement.

An Indemnified Party will (i) promptly notify the Indemnifying Party of any claim, suit, or proceeding for which indemnity is claimed (but the Indemnifying Party shall be relieved from liability only to the extent any delay in providing such notice prevents the Indemnifying Party from defending such claim, suit or proceeding); (ii) cooperate reasonably with the Indemnifying Party at the Indemnifying Party's expense; and allow the Indemnifying Party to control the defense or settlement thereof. The Indemnified Party will have the right to participate in any defense of a claim and/or to be represented by counsel of its own choosing at its own expense.

8. **Limitation of Liability.** Under no circumstances shall either party be liable for any indirect, incidental, economic, special, punitive or consequential damages, whether for breach of contract, negligence or under any other cause of action, that result from the referral of Prospects contemplated by this Agreement.

9. **Confidentiality.** Each party hereto acknowledges that by reason of its relationship to the other party hereunder, it may have access to certain information and material concerning the other party's business, plans, customers, technology, intellectual property, proprietary information, services and products, all of which are confidential and of substantial value to the other party, which value would be impaired if such information were disclosed to third parties. Accordingly, each party hereto agrees that it will not use in any way for its own account or the account of any third party, nor disclose to any third party, any such confidential information revealed to it by the other party. In the event of termination of this Agreement, there shall be no use or disclosure by either party of any confidential information of the other party and any materials related to the other party shall be immediately returned to the disclosing party. Each party hereto acknowledges that the provisions of this Section 7 are reasonable and necessary for the protection of the other party and that the other party will be irrevocably damaged if such covenants are not specifically enforced. Accordingly, each party hereto agrees that, in addition to any other relief to which the other party may be entitled in the form of actual

or punitive damages, the other party shall be entitled to seek injunctive relief from an arbitration panel or a court of competent jurisdiction for the purposes of restraining a party from any actual or threatened breach of such provision. The terms of this Section 7 shall survive termination of this Agreement.

10. **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and may not be altered or amended except in writing signed by both parties.

11. **Governing Law.** This Agreement and performance hereunder shall be governed by the laws of the State of [STATE], without regard to conflicts of laws. Any action or proceeding based on this Agreement shall be brought only in the state or federal courts located in the County of [COUNTY], State of [STATE], and both parties agree to submit to the exclusive personal jurisdiction of such courts. Process in any such action or proceeding may be served on either party anywhere in the world. Company and Referral Partner agree that the prevailing party in any such action or proceeding shall be entitled to recover the reasonable attorneys' fees and costs incurred by such party in the course of prosecuting or defending any lawsuit brought under this Agreement.

12. **Severability.** In the event any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, that part shall be severed from the remainder of the Agreement and all other provisions should continue in full force and effect as valid and enforceable.

13. **Survival.** The terms of this Agreement shall survive the term of this Agreement and shall bind and inure to the benefit of the successors, assigns, personal representatives, heirs and legates of all parties.

14. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties hereto has caused the Agreement to be executed by its duly authorized representative on the date set forth above.

COMPANY:

REFERRAL PARTNER:

[COMPANY #1]

[COMPANY #2]

By: _____
[Company #1 Signatory]

By: _____
[Company #2 Signatory]

EXHIBIT A

Prospect Referral Form

Referral Information	
Date of Referral:	
Referral Partner:	
Referral Partner Sales Representative:	
Phone Number:	
Fax Number:	
Email:	
Website:	
Prospect Referral Form Notice Information	
Company:	
Company Representative:	
Phone Number:	
Fax Number:	
Email:	
Website:	
Prospect Information	
Prospect First Contacted:	
Name:	
Address:	
City:	
State:	
Zip:	
Website:	
Phone:	
Email:	
Contact Person 1 (name/position):	
Contact Person 1 (phone/email):	
Comments:	