**Referral Agreement**

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Referral agreement

This Referral Agreement (this “**Agreement**”) is [entered into as of [\_\_\_\_\_] (the “**Effective Date**”) and is ]between [\_\_\_\_\_], a [STATE] [corporation/limited liability company] (the “**Referrer**”), and [\_\_\_\_\_], a [STATE] [corporation/limited liability company] (the “**Company**”).

The Referrer is in the business of \_\_\_\_\_.

Company is in the business of [\_\_\_\_\_] (the “**Company’s Services**”).

The Referrer wishes to refer to the Company, and the Company wishes the Referrer to refer to it, potential customers who may be interested in the Company’s Services, all in accordance with the terms and conditions of this Agreement.

The parties, therefore, agree as follows:

# **Term and Termination**

## This Agreement will commence on the Effective Date and will remain in effect for a period of one year unless earlier terminated as provided in this section. The term of this Agreement will automatically renew on a month-to-month basis unless (1) this Agreement is terminated as provided in this section or (2) one of the parties provides written notice of nonrenewal at least 30 days before the expiration of the initial term.

## Either party may terminate this Agreement effective upon 30 days’ written notice to the other party if the other party materially breaches this Agreement. However, if the breaching party cures the breach within the 30-day notice period, this Agreement will not terminate.

# **Referral Services**

## During the term of this Agreement, the Referrer may utilize its experience, expertise, and contacts to refer potential customers to the Company for the Company’s Services. All agreements for the Company’s Services will be between the Company and the Company’s customers. The Referrer will have no authority to enter into any agreement with respect to the provision of the Company’s Services or to bind the Company in any way and shall not represent to any potential customer or any other third party that it has such authority. The Company will not be under any obligation to enter into an agreement with any potential customer, and any sales of the Company’s Services will be subject to the approval of the Company and a written agreement between the Company and the customer.

## The parties do not intend for this Agreement to obligate the Referrer to provide referral services or any other services to the Company. The Referrer will not be required to devote any specific amount of time to rendering services under this Agreement.

# **Referral Fee**

## In consideration for the Referrer’s referral services, the Company shall pay to the Referrer fees (“**Referral Fees**”) in [the amount of $\_\_\_\_\_]/ [an amount equal to X% of Qualified Revenue. “**Qualified Revenue**” means service revenue, net of returns and refunds, received by the Company from each Qualified Engagement. “**Qualified Engagement**” means an engagement by the Company by a Qualified Customer. “**Qualified Customer**” means a customer: (1) that is referred to the Company for the Company’s Services by the Referrer, (2) with respect to which the Referrer notifies the Company of such referral in writing within the 90-day period immediately preceding the engagement of the Company by the Qualified Customer, (3) that is not a current or former customer of the Company, and (4) with respect to which the Company is not obligated to pay a referral fee, commission, or other compensation to anyone other than the Referrer.

## Referral Fees will be payable in arrears by the tenth day of the month following receipt by the Company of Qualified Revenue. However, if the Company pays Referral Fees to the Referrer with respect to Qualified Revenue that is refunded to the Qualified Customer after Referral Fees are paid, then the Referrer shall refund to the Company the amounts paid as Referral Fees in respect of the refunded Qualified Revenue. At the Company’s election, the Company may deduct such Referral Fees from the next payment of Referral Fees to the Referral under this Agreement.

# **Representations**. Each of the parties represents to the other that (1) it has full legal right, power, and authority to enter into this Agreement and to perform its obligations under this Agreement, (2) this Agreement constitutes its legal, valid, and binding obligation, enforceable in accordance with this Agreement’s terms, and (3) this Agreement does not conflict with or violate any agreement or arrangement to which it is a party or by which it is or may be bound.

# **Notices Between the Parties.** All notices, consents, requests, demands, and other communications under this Agreement are to be in writing, and will be deemed to have been given: (1) when delivered in person; (2) three days after deposited in the United States mail, first class postage prepaid; (3) in the case of overnight courier services, one business day after delivery to the overnight courier service with payment provided; (4) in the case of electronic transmission such as email, when sent; in each case addressed as follows, or to such other address as any party may designate by notice to the other party in accordance with the terms of this section:

If to the Referrer: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

Email: \_\_\_\_\_

If to the Company: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

Email: \_\_\_\_\_

# **Assignment and Delegation.** The Referrer may not (1) assign or transfer any of its rights under this Agreement, either voluntarily or involuntarily, whether by operation of law, or any other manner, or (2) delegate any performance under this Agreement, except with the prior written consent of the Company. Any purported assignment of rights or delegation of performance in violation of this section is void.

# **Third Party Beneficiaries.** This Agreement is solely for the benefit of the parties and their respective successors and permitted assigns, and no other person has any right, benefit, priority, or interest under or because of the existence of this Agreement.

# **Governing Law and Forum Selection**

### The laws of the State of [\_\_\_\_\_] (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Agreement and all of the transactions it contemplates, including, without limitation, its interpretation, construction, validity, performance (including the details of performance), and enforcement.

### Any party bringing a legal action or proceeding against any other party arising out of or relating to this Agreement or the transactions it contemplates shall bring the legal action or proceeding in either the United States District Court for the [\_\_\_\_\_] District or in any court of the State of [\_\_\_\_\_] sitting in [\_\_\_\_\_] County. Each party to this Agreement consents to the exclusive jurisdiction of the United States District Court for the [\_\_\_\_\_] District and its appellate courts, and any court of the State of [\_\_\_\_\_] sitting in [\_\_\_\_\_] County and its appellate courts, for the purpose of all legal actions and proceedings arising out of or relating to this Agreement or the transactions it contemplates and agrees that the exclusive choice of forum set forth in this section does not prohibit the enforcement of any judgment obtained in that forum or any other appropriate forum.

### Each party waives, to the fullest extent permitted by law, any objection which it may now or later have to the laying of venue of any legal action or proceeding arising out of or relating to this Agreement or the transactions it contemplates brought in the United States District Court for the [\_\_\_\_\_] District or in any court of the State of [\_\_\_\_\_] sitting in [\_\_\_\_\_] County and any claim that any action or proceeding brought in any such court has been brought in an inconvenient forum.

# **Attorney Fees.** If any legal action or other proceeding is brought by the Company under this Agreement, in addition to any other relief to which the Company is entitled, the Company will be entitled to recover, and the Referrer shall pay, all (1) reasonable attorney fees of the Company, (2) court costs, and (3) expenses, even if not recoverable by law as court costs (including, without limitation, all fees, taxes, costs, and expenses incident to appellate, bankruptcy, and post-judgment proceedings), incurred in that action or proceeding and all appellate proceedings. For purposes of this section, the term “attorney fees” includes, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs, disbursements, and all other charges billed by the attorney to the Company.

# **No Partnership.** This Agreement does not make either party the employee, joint venturer, partner, agent, or legal representative of the other for any purpose whatsoever. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other party. In fulfilling its obligations under this Agreement each party will be acting as an independent contractor.

# **Amendment and Waiver.** No amendment, modification, consent, or waiver of any provision of this Agreement, nor consent to any departure therefrom, will be effective unless it is in writing and is signed by the party against whom enforcement is sought. Any waiver of any provision of this Agreement and any consent to any departure from the terms of any provision of this Agreement is to be effective only in the specific instance and for the specific purpose for which given.

# **Entire Agreement.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, and discussions of the parties, whether oral or written.

# **Counterparts.** This Agreement may be signed by the parties on any number of separate counterparts, and all such counterparts so signed constitute one agreement binding on all the parties even though all the parties are not signatories to the same counterpart. A signature delivered by facsimile, email, or other means of electronic transmission will have the same legal effect as delivery of an original signed copy of this Agreement. This Agreement may be signed electronically.

*[Signature page follows.]*

The parties are signing this Agreement as of the Effective Date.

[REFERRER]

By:

[NAME]

[TITLE]

[COMPANY]

By:

[NAME]

[TITLE]

[NAME]