

Referral Provider Agreement

Referral Provider Name	
Referral Provider Address	
Effective Date	

This **Referral Provider Agreement** (the "**Agreement**") is entered into between **[Insert Company Name]**, a California corporation maintaining its principal place of business at **[Insert Address]** ("**Company**") and the Referral Provider named above.

1. Referral Provider Program. This Agreement and any exhibits or URLs referenced herein establish the terms and conditions that apply to Referral Provider's participation in the Company Partner Program (the "**Program**"), under which Referral Provider will assist Company on a non-exclusive basis with providing referrals, marketing and support services to Company Customers for Company within the Territory as described in Exhibit A. Company Products are only licensed, never sold. The Program requires the payment of a yearly non-refundable Program fee in the amount set forth on Exhibit A (the "**Program Fee**"), and establishes two program levels: an advanced level ("**Advanced Level**"), and a basic level ("**Basic Level**") (collectively, the Advanced Level and Basic Level referred to hereafter as the "**Program Levels**"). The Program Benefits are more fully described at the Partner Portal. The parties acknowledge that Referral Provider's Program Level may change from time to time during the Term (as defined in Section 9.1). The parties understand and agree that the Program Benefits that will apply to Referral Provider at any given time during the Term will be dependent on the Program Level designated by Company. In day-to-day communications and marketing collateral, Company may refer to Referral Provider as a "partner" in the common language sense of the word as it is increasingly used for cooperative business relationships and doing so does not and will not modify the terms or expectations set forth in Section 14.1.

2. Nature of Engagement/Company's Reserved Rights.

2.1 Non-Exclusive Engagement. Subject to the terms and conditions set forth herein, Company engages Referral Provider, and Referral Provider accepts the engagement, as an independent, nonexclusive provider of support services and promotional services regarding the Company Products, to market, promote, demonstrate, service and support (collectively, "**Market**" or "**Marketing**") the Company Products within the Territory during the Term. For the avoidance of doubt, this engagement pertains only to the Marketing of Company Products, as revised by Company from time to time, and not to any other products or services that are now, or may hereafter be, published, manufactured, provided or distributed by Company, unless specifically authorized by Company.

2.2 Services. Referral Provider understands and agrees that any professional services offered by Company shall be rendered under a separate professional services agreement to be executed by the parties or between Company and the Customer, as applicable.

2.3 Company's Reserved Rights. Company reserves the right unto itself, from time to time and in its sole discretion, to: (a) increase or decrease the number of authorized referral providers in the Program; (b) market, distribute and sell the Company Products and any related services to any and all types of persons or entities, inside or outside of the Territory, using its own personnel or independent sales representatives, including through OEMs, resellers, distributors and/or system integrators; and (c) to add to and/or remove Company Products and Services or any functionality or features included therein, from the list available for Referral Provider to Market.

3. Benefits, Rights, Obligations and Restrictions.

3.1 Benefits. Referral Provider will receive the Program Benefits, as described in this Agreement and on the Partner Portal (or any other medium of communication selected by Company), which Company may update and modify from time to time in its sole discretion. Company shall use commercially reasonable efforts to inform Referral Provider of any material modifications to the Program Benefits by posting a notice on the Partner Portal or sending an email to Referral Provider's main contact, as provided by Referral Provider to Company; provided that failure by Company to provide such notice will not be a breach of this Agreement.

3.2 Rights and Restrictions. With respect to the Company Products, Referral Provider has the following rights:

(a) **Internal Use of Company Products to Support Customers.** Subject to the terms and conditions of this Agreement (including by way of example only Section 3.11), Referral Provider may install one (1) copy of the Company Product for Referral Provider's non-production use for up to the number of users allowed per the Program Benefits for the applicable Program Level; provided that such use is limited to: (i) development, integration or testing the Company Products on behalf of Customers in connection with the deployment by such Customers of the Company Products (which includes the right to make Modifications on behalf of a Customer at that Customer's request pursuant to a separate services agreement with such Customer); (ii) conducting internal training of Referral Provider's personnel on the Company Products to enable such personnel to fulfill the Referral Provider's obligations under this Agreement; (iii) training and supporting Referral Provider's Customers in connection with such Customers' use of Company Products, as contemplated in this Agreement; and (iv) development, integration, demonstration, testing, supporting and demonstrating the Referral Provider Solutions. For clarity, the foregoing use rights do not include the right to sublicense or distribute the Company Products to any third party, including Customers.

(i) **Third-Party Software.** The Company Product utilizes or includes certain Third Party Software. Referral Provider's use of the Company Product, including all Third Party Software accessible via APIs, is governed by the applicable Third-Party Software terms and conditions. A listing of Third-Party Software licenses and/or notices can be found at: <http://www.Company.com/third-party-software>. If a Third Party Software provider requires Company to remove such software from the Company Product due to violation of applicable law or third-party rights, Referral Provider agrees to cooperate with Company to ensure its removal from the Company Product and Referral Provider's and its Customers' systems.

(ii) **Third Party APIs.** Features that interoperate with third party services (such as Google) depend on the continuing availability of the API and program for use with the Company Product. If a third party ceases to make the API or program available on reasonable terms to Company, Company may cease providing such third party features without entitling Referral Providers or Customers to any refund, credit, or other compensation.

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(b) **Internal Use of Company Products for Production Purposes.** If Referral Provider desires to use Company Products for production purposes (e.g., as Referral Provider's own customer-relationship management system), then Referral Provider will be required to execute a special Order Form with Company, which Order Form will set forth the terms and conditions applicable to Referral Provider's production use of the Company Products for the number of users specified in such Order Form. Unless the Program Benefits expressly provide that production-use licenses are available at no additional charge (such as for a specified number of users), then Referral Provider will be required to pay the applicable per user subscription fee to obtain such production licenses.

3.3 Demonstrations and Evaluations. Referral Provider may: (a) provide demonstrations of the Company Product to Prospects, provided that such Prospect has executed a non-disclosure agreement with Referral Provider prior to Referral Provider providing any demonstration of the Company Product; and (b) distribute Evaluation Versions to Prospects, provided that such Prospect has executed an Evaluation Agreement prior to Referral Provider distributing or providing access to any Evaluation Version of the Company Products. For purposes of this Agreement, "**Evaluation Version**" means a Company Product, together with Referral Provider's Modifications thereto, that is provided to a Prospect for a limited time period for evaluation purposes only.

3.4 Referral Provider Products. Referral Provider may develop and market Referral Provider Solutions that complement and extend Company Products, provided that Referral Provider provides Company with reasonable written notice prior to the initiation of such development and any initiation of marketing activity associated with a Referral Provider Solution.

3.5 Obligations. Referral Provider recognizes that a certain level of expertise and commitment is necessary to properly Market the Company Products. By entering into this Agreement, Referral Provider certifies that during the Term it will perform all of its obligations under this Agreement and the Program, including, but not limited to:

3.6 Establishing Customer Agreements.

(a) **General Requirements.** Referral Provider understands and agrees that prior to a Customer receiving access to or use of a Company Product, each Customer must agree to the terms and conditions of Company's master subscription terms (the "**MSA**"), as such may be amended from time to time by Company in its sole discretion. For clarity, Referral Provider is not a party to the MSA and Referral Provider understands and agrees that Referral Provider is not authorized to negotiate the terms of the MSA or any other terms on behalf of Company or conduct any activities practiced by 'commercial agents' or 'sales representatives. A courtesy copy of the then-current MSA(s) is customarily available on the Partner Portal, though Referral Provider can submit a written request to Company to obtain a copy of such MSA.

3.7 Support. The parties agree to their respective Support obligations set forth in Exhibit B. Referral Provider further understands and agrees that: (a) it will be responsible for its own datacenter and application-hosting infrastructure; and (b) Company shall have no responsibility to provide technical support or maintenance for any Modifications created by or for Referral Provider or Referral Provider's Customers. Further, if a Customer provides Company with a written request to transition from Referral Provider to another third party within the Program, Referral Provider agrees to fully cooperate with Company to process such transition and to provide the necessary support services to complete such transition.

3.8 Upgrade Policy. Referral Provider understands and acknowledges that Company regularly retires older versions of the Company Products and that Support Services on the older versions of the Company Products are only provided to customers for a designated period of time (the "**End-of-Life Policy**"). The End-of-Life Policy for Company Product versions can be found at: [\[website\]](#). Referral Provider understands that Support Services for the Company Products will end according to the End of Support Dates indicated therein and that prior to the End of Support Dates for the version of the Company Products that Referral Provider is Marketing, Referral Provider must instruct its Customers to upgrade to the latest supported version of the Company Product in order to continue receiving Support Services from Company. Company reserves the right to modify its End-of-Life Policy in the future, by providing notices of such modifications at the URL noted above. Referral Provider understands and agrees that Company is under no obligation to create new or compatible versions of the Company Products for current or newly-released operating systems.

3.9 Reporting. During the Term, Referral Provider agrees to furnish Company with weekly "pipeline" lead information and engage with Company designated account sales representatives to discuss such leads, irrespective of whether such leads are passed by Referral Provider to Company or from Company to Referral Provider. The parties acknowledge that such discussions are critical to the success of the Program and that Company may suspend Referral Provider's participation in the Program, if such discussions are missed or delayed by Referral Provider, as determined by Company in its sole discretion.

3.10 Unauthorized Use. Referral Provider agrees to: (a) Market and use the Company Products only in accordance with the terms of this Agreement; (b) prevent unauthorized access or use of the Company Products; and (c) notify Company immediately, in writing, of (i) any unauthorized use of, or access to, the Company Product, any Customer account or any Subscription User account or password thereof; or (ii) any notice or charge of noncompliance with any applicable law, rule or regulation asserted or filed against Referral Provider in connection with a Customer.

3.11 Referral Provider Restrictions. Except as expressly provided in this Agreement, Referral Provider shall not, directly or indirectly: (a) sublicense, resell, rent, lease, distribute, commercialize or otherwise transfer rights or usage in or to the Company Products or any Modifications created by or for Referral Provider to any other partner, dealer, Referral Provider or to an original equipment manufacturer or other third party which can incorporate the Company Product into any computer hardware, software or similar system for sale (collectively, an "**OEM**"); (b) remove or alter any copyright, trademark or any other proprietary notices (including any license files or the like) in the Company Products; (c) provide the Company Products or any modified version or derivative work of the Company Products (including Modifications) created by or for Referral Provider, on a timesharing, service bureau or other similar basis; (d) copy any features, functions or graphics of the Company Products for any purpose other than what is expressly authorized in this Agreement; (e) reverse engineer, decompile or modify any encrypted or encoded portion of the Company Products; (f) modify any Original Code to develop Forked Software; (g) make any Modifications to any portion of the Critical Control Software; (h) use or modify the Company Products in any way that would subject the Company Products, in whole or in part, to a Copyleft License; (i) access or use the Company Products for the purpose of building a competitive product or service or copying its features or interface; (j) cease to adhere to Company's policies and procedures around development and testing on Company's on demand environment; (k) purchase Company Products from a source other than Company; (l) accept any order as binding upon Company, without Company's written consent; or (m) accept any terms and conditions on behalf of Company that modify, alter, add to or change in any way the terms and conditions

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applicable to the Company Products, unless agreed to by Company in writing. Referral Provider understands and agrees that it has no authority to, and shall not, bind Company to any obligations. Referral Provider understands that any violation of this Section 3.11 may be cause for immediate termination by Company for material breach, as determined in Company's sole discretion.

3.12 Operation of Referral Provider Websites. Referral Provider will be solely responsible for, and Company shall have no liability related to, the development, operation or maintenance of Referral Provider Websites. Referral Provider agrees that the use of any Company Marks on Referral Provider's Website will: (a) conform to the Branding Guidelines located at [\[website\]](#); or (b) will be approved in writing by Company prior to Referral Provider posting such Company Marks on the Referral Provider Website or using such Company Marks in any materials, promotional or otherwise. In all cases, Referral Provider must comply with the restrictions set forth in Section 7.5(c) applicable to use of same or similar names, marks or identifiers to those used by Company.

3.13 Training and Certification. Referral Provider agrees to attend the training and certification courses required under the Program for Referral Provider's specific Program Level, at Referral Provider's own expense, to learn about the Company Products. Referral Provider agrees: (a) to obtain the Program certification within twelve (12) weeks of the Effective Date of this Agreement, if such certification is a requirement for Referral Provider's Program Level; and (b) it will attend a sufficient number of training sessions in order to have the necessary expertise to provide Tier 1 Support Services, as described in [Exhibit B](#), to its Customers.

3.14 Compliance with Company's Business Policies and Practices. Company expects its Referral Providers to conduct business honestly, ethically, legally and with integrity. Further, all of Referral Provider's Marketing of Company Products to Customers are subject to any and all Company rules, business policies, and operating procedures (including, but not limited to, those concerning Orders, MSAs or Referral Provider Customer Agreements, as applicable, service, and sales generally and the Supplier Code of Conduct) (collectively, the "**Business Policies and Practices**"). Company shall make these Business Policies and Practices known to the Referral Provider, like by posting them on the Partner Portal. Referral Provider agrees to adhere to the Business Policies and Practices while conducting business with or on behalf of Company. Company may change its rules, policies and operating procedures at any time, in its sole discretion, and wherever reasonably practicable upon thirty (30) days' notice to Referral Provider, which may be done by posting on the Partner Portal and/or via email.

3.15 Company Product Features and Components. Company reserves the right to make modifications to the Company Product or particular features or components of the Company Product, from time to time, at its sole discretion. Company will exercise reasonable commercial efforts to notify Referral Provider and Customers of any such material modifications to the Company Product, provided however, that Company will not have any liability for failure to provide such notice.

3.16 Company Community Edition. Referral Provider will not, directly or indirectly, develop, market, distribute or offer any services related to any open source version of Company software (like the Sugar Community Edition), derivative works of any open source version of Company software, or any Referral Provider software code made to work with any open source version of Company software, without Company's prior written consent. Referral Provider will not directly or indirectly develop and market products, modules or any other software code for use with any Company open source version of Company software that has functionality similar to, and/or competitive with the Company Products. Referral Provider understands and acknowledges that such action may be cause for immediate

suspension and/or termination of this Agreement by Company, at Company's sole discretion. For purposes of this Section, "**Company Community Edition**" means any open source version of the Company Product that is licensed under the GNU Affero General Public License version 3.

4. Intellectual Property.

4.1 Ownership of Company Product and Modifications. Company owns all right, title and interest, including all Intellectual Property Rights, in and to the Company Product, any and all Modifications, Company Websites, Company Links and Company Marks, including all copies of any of the foregoing (collectively, the "**Company Property**"). Referral Provider hereby does and will assign to Company all right, title and interest worldwide in the Intellectual Property Rights embodied in any and all Modifications. To the extent any of the rights, title and interest are not assignable by Referral Provider to Company, Referral Provider grants and agrees to grant to Company an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) under Referral Provider's Intellectual Property Rights to use, disclose, reproduce, license, sell, offer for sale, distribute, import and otherwise exploit the Modifications in its discretion, without restriction or obligation of any kind or nature. Except as expressly stated otherwise in this Agreement, Company retains all of its right, title and ownership interest in and to the Company Property, and no other Intellectual Property Rights or license rights are granted by Company to Referral Provider under this Agreement, either expressly or by implication, estoppel or otherwise, including, but not limited to, any rights under any of Company's or its Affiliates patents.

4.2 Freedom to Operate and Innovate. Nothing in this Section 4 shall inhibit, hamper, encumber or otherwise impede Company's freedom to create Modifications or improve, extend and/or modify any and all Company Products or services that Company may offer from time to time to support or use the Company Products.

4.3 Feedback. Referral Provider or its Subscription Users may, from time to time, provide suggestions, enhancement or feature requests or other feedback to Company with respect to the Company Property or other Company products, services or related documentation (whether or not such is disclosed or delivered by Company to Referral Provider under this Agreement) (collectively, "**Feedback**"). Referral Provider agrees that all Feedback is and shall be given by Referral Provider entirely voluntarily. Company shall be free to use, disclose, reproduce, license or otherwise distribute and exploit the Feedback in its discretion, without restriction or obligation of any kind or nature. Feedback, even if designated as confidential by Referral Provider, shall not create any obligation of confidentiality for Company, unless Company expressly agrees so in writing.

4.4 Code Contributions. If Referral Provider desires to contribute actual code back to Company, Referral Provider will be required to enter into a separate contribution agreement with Company.

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5. Order Processing.

5.1 Lead Registration Process. In connection with the Marketing of Company Products to Customers, Referral Provider shall ensure that complete and accurate Customer information has been provided to Company or entered into a Lead Registration Form on the Partner Portal, in accordance with the Program Guide found at the following URL: [\[website\]](#) (the "Program Guide"), which may be updated from time to time, by Company in its sole discretion. Company shall use commercially reasonable efforts to notify Referral Provider of any material modifications to the Program Guide by posting a notice on the Partner Portal and/or sending an email to Referral Provider's main contact, as provided by Referral Provider to Company; provided that failure by Company to provide such notice will not be a breach of this Agreement.

5.2 Order Processing. Referral Provider agrees to adhere to the Orders Process identified in [Exhibit A](#).

6. Fees, Payments and Audit.

6.1 Fees and Payment Terms.

(a) **Program Fees.** Within thirty (30) days of the Effective Date, Referral Provider will pay Company the non-refundable Program Fee. The Program Fee applicable to any Renewal Term (as defined in Section 9.1) shall be equal to the then-current Program Fee at the time of renewal. Other than the initial thirty (30) days of this Agreement, Referral Provider may not participate in the Program until payment of the applicable Program Fee has been received by Company for the applicable Term. For the avoidance of doubt, all Program Fees for Renewal Terms shall be due prior to expiration of the then-current term.

(b) **Referral Fees.** If Referral Provider submits a lead in full compliance with this Agreement and all applicable Company terms and policies, and Company, at its sole discretion, decides to accept an Opportunity from Referral Provider, then Company agrees to pay Referral Provider the applicable Referral Fee (as defined in Exhibit A) for each Company Product Subscription purchased by Referral Provider's Customers, within thirty (30) days of Company's receipt of payment from those Customers. Except as stated otherwise in Section 6.1(b), all Fees that accrue and are not reasonably in dispute are due thirty (30) days from the applicable invoice date. Referral Provider shall submit all applicable Fees in U.S. Dollars.

(c) **Payment Disputes.** Referral Provider shall provide Company with written notice of any disputed Fee within ten (10) days after receipt of the applicable invoice. The parties will enter into good faith discussions to resolve any disputed Fee.

6.2 Taxes. Unless otherwise provided, Fees do not include any Taxes or other charges. Referral Provider shall be responsible for reporting, paying, remitting, accepting, withholding and/or reimbursing Company for any and all Taxes that become due with regard to all transactions hereunder. Reseller is not, however, responsible for paying any of Company's U.S. income or property taxes. For avoidance of doubt, if any applicable law requires Reseller to withhold Taxes from any Fees: (a) Referral Provider shall effect such withholding, remit such Taxes to the appropriate taxing authorities and promptly furnish Company with tax receipts evidencing the payments of such Fees; and (b) the sum payable by Referral Provider to Company shall be increased to the extent necessary to ensure that, after such Taxes, Company receives and retains, free from liability for such Taxes, a net amount equal to the Fees that Company would have received and retained absent the required Taxes.

6.3 Audit. Referral Provider shall keep all records (including,

but not limited to, Order Forms and Referral Provider Customer Agreements) applicable to each Customer transaction related to this Agreement ("Records") during the Term and for a period of six (6) years thereafter. Company, or a third party designated by Company, shall have the right to audit and inspect Referral Provider's Records in order to verify Referral Provider's compliance with the terms of the Agreement and any Referral Provider Customer Agreements. Referral Provider shall provide Company or its designated third party auditor with access to all Records in order to perform the audit and inspection.

7. Marketing.

7.1 General. Referral Provider will at all times perform all of its obligations under this Agreement in a professional manner and in accordance with this Agreement and any guidelines issued by Company, including, without limitation, the Business Policies and Practices. During the Term, Referral Provider agrees to: (a) conduct business in a manner that reflects favorably at all times on the Company Products, the Company Marks and the good name, goodwill and reputation of Company; (b) avoid deceptive, misleading or unethical practices that are or might be detrimental to Company, the Company Products or the Company Marks, including but not limited to disparagement of Company or the Company Products; (c) not knowingly make any false or misleading representation with respect to Company, the Company Products or the Company Marks; and (d) use Company Marks solely to promote, market and identify Company Products in accordance with this Section 7.

7.2 Promotion. Referral Provider shall use commercially reasonable efforts to coordinate with Company regarding marketing and promotion of Company Products in the Territory. Among other things, Referral Provider shall: (a) attend trade shows to promote the Company Products; (b) list the Company Products in Referral Provider's product lists and Referral Provider's other marketing materials (per the terms set forth hereunder); (c) coordinate with Company regarding advertising of the Company Products in trade journals, magazines, and other appropriate publications; and (d) as may be requested by Company from time to time, translate and distribute Company's press releases and other publicity and sales materials in the Territory.

7.3 Linking to Company. Company grants to Referral Provider, for the Term, a limited, non-transferable, non-exclusive, revocable license to use the Company Links, solely to: (a) publicize its then-current Program Level; and (b) access Company Websites through Company Links. Referral Provider shall promptly substitute new Company Links that may be provided to Referral Provider by Company from time to time. In addition, Referral Provider shall comply with the Company Trademark Policy located at the following URL: [\[website\]](#), in connection with the presentation of Company Links on Referral Provider's Websites. Referral Provider may in no event alter, modify or change any Company Links as provided by Company.

7.4 No Spam or Forced Linking. Referral Provider shall not send Spam. Referral Provider shall not force visitors to any Company Website via any mechanism that acts as an automatic transport, such as "meta refresh" or "forced exit" scripts. For purposes of this Section, "Spam" means unsolicited commercial email or other reasonably similar online, unsolicited commercial, direct messaging that makes reference to Company, any Company Products or any other product or service of Company, or that includes a link to any Company URL or Company Website.

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7.5 Trademarks and Other Branding Requirements.

(a) **Restrictions on use of Company Marks.** Referral Provider shall refer to the Company Products in accordance with the Company Trademark Policy located at the following URL: [\[website\]](#), as amended from time to time at Company's sole discretion. Referral Provider shall not register itself as trademark licensee with any government authority or assert any rights to Company Marks vis-à-vis any Customer or other third party. Referral Provider shall not alter, modify or change any Company Mark in any way whatsoever. Company reserves all rights in the Company Marks and all Intellectual Property Rights embodied therein. Referral Provider shall not assert the invalidity, unenforceability or contest the ownership by Company of the Company Marks in any action or proceeding of whatever kind or nature, and shall not take any action that may prejudice Company's rights in the Company Marks, render the Company Marks generic, or otherwise weaken their validity or diminish their associated goodwill. Any and all goodwill arising from Referral Provider's use of the Company Marks shall inure exclusively to the benefit of Company.

(b) **Limited License to use Referral Provider Marks.** During the Term and subject to the terms and conditions of this Agreement, Referral Provider grants to Company a non-transferable, non-exclusive, license to reproduce and display Referral Provider Marks so that Company may refer to Referral Provider as a participant in the Program, such as on a Company Website, in press releases and in other marketing materials. Company shall not alter, modify or change any Referral Provider Marks in any way whatsoever. Referral Provider reserves all rights in the Referral Provider Marks and all other Intellectual Property Rights in and to the Referral Provider Marks. Company shall not assert the invalidity, unenforceability or contest the ownership by Referral Provider of the Referral Provider Marks in any action or proceeding of whatever kind or nature, and shall not knowingly take any action that might prejudice Referral Provider's rights in the Referral Provider Marks, render the Referral Provider Marks generic, or otherwise weaken their validity or diminish their associated goodwill. Any and all goodwill arising from Company's use of the Referral Provider Marks shall inure exclusively to the benefit of the Referral Provider.

(c) **No Confusing Content in Referral Provider Domain, Website or Name.** Referral Provider agrees that the Referral Provider Websites and domain names for Referral Provider Websites do not and will not contain any Company Marks or any variation thereof, except as otherwise permitted herein. Referral Provider understands and agrees that it may not use the name "Sugar" as part of Referral Provider's company name, domain name, website or Referral Provider product. Referral Provider Websites may not copy, co-brand or frame any Company Website or otherwise have any portion of any Company Website visible on Referral Provider Websites, or otherwise have any portion of Referral Provider Websites visible on the screen once a user has clicked through to a Company Website. Absent the prior approval of Company, Referral Provider Websites will not in any way copy any content from, or resemble the look and feel of, any Company Website. Referral Provider shall not create the impression that any Referral Provider Website is a Company Website or is part of any Company Website. All content on Company Websites is the copyrighted material of Company or a third party and may not be copied without prior written permission from Company. All banners and links used by Referral Provider to link to any Company Websites must be downloaded from Company Websites in accordance with the terms of this Agreement and Company's Branding Guidelines available at: [\[website\]](#), or subject to prior approval of Company. If Referral Provider fails to comply with the requirement set forth in this Section or other Sections applicable to the use of Company Marks, then Company reserves the right to suspend Referral Provider's access to the Partner Portal (which will prevent Referral Provider

from being able to submit leads or Opportunities) and/or terminate this Agreement.

8. **Data Collection, Usage, Protection and Security.**

8.1 **E.U. Safe Harbor.** Company adheres to the U.S.-European Union Safe Harbor Framework privacy principles and is registered with the Safe Harbor Program. Company's Privacy Policy can be located at the following URL: [\[website\]](#).

8.2 **Data Protection and Security.** Company uses technical, administrative and physical safeguards that are reasonably designed to help protect the Customer Data from loss, unauthorized access, disclosure, alteration, or destruction. Company shall not: (a) modify Customer Data, or (b) disclose Customer Data, except as expressly set forth in this Agreement or as otherwise permitted in writing by Customer.

8.3 Data Collection and Protection.

(a) **Business Information.** Referral Provider agrees to allow Company and its Affiliates to store and use Referral Provider business contact information, including names, business phone numbers, and business e-mail addresses, anywhere it does business. Such information will be processed and used in connection with Company's business relationship, and may be provided to contractors acting on Company's behalf, Company's business partners who promote, market and support certain Company products and services, and assignees of Company and its subsidiaries for uses consistent with Company's business relationship.

(b) **Relationship of the Parties.** To the extent that the Customer Data contains personal data about any living individual ("**Data**"), Company will process that Data, where applicable, only as a Data Processor acting on behalf of Customer (as the Data Controller) and in accordance with the requirements of this Agreement.

(c) **Compliance with Privacy Laws.** Referral Provider will at all times comply and ensure its Customers comply in full with the requirements of any applicable privacy and data protection laws (including where applicable, European Union Directives 95/46/EC and 2002/58/EC and any national implementation(s) of them) to which it is subject as a Data Controller ("**Applicable Privacy Law(s)**").

(d) **Purpose Limitation.** Company will process the Data in accordance with Customer's instructions under Applicable Privacy Law(s) and will not: (i) assume any responsibility for determining the purposes for which and the manner in which the Data is processed, or (ii) process the Data for its own purposes. If Referral Provider is hosting the Company Products for a Customer, Referral Provider will also ensure it complies with the limitations set forth in this Section and inform and gain consent with respect to usage data as further contemplated in the following sub-sections (e) and (f).

(e) **Usage Data.**

(i) In the course of providing Customers with the services described in this Agreement (like pursuant to MSAs), Company may also collect, use, process and store diagnostic and usage related content from the computer, mobile phone or other devices the Customers' Subscription Users use to access the Company Product or related service. This may include, but is not limited to, IP addresses and other information like internet service, location, the type of browser and modules that are used and/or accessed (the "**Usage Data**"). Usage Data does not, however, include Customer Data.

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(ii) The Company Product also includes Critical Control Software that regularly transmits certain usage data, including but not limited to, licensing, system and service performance data, to Company to verify compliance with the terms of this Agreement and to improve Company's products and services. Referral Provider understands and agrees that Company can and will use the Critical Control Software in accordance with the terms of this Agreement. Critical Control Software does not collect or access any Customer Data.

(f) Aggregated Data Use. Notwithstanding Sections 8.3(e)(i) or 8.3(e)(ii), Referral Provider agrees and will ensure Referral Provider's Customers agree that Company may process the Data and Usage Data to create and compile anonymized, aggregated datasets and/or statistics about the Company products or services in order to: (i) maintain and improve the performance and integrity of Company products or services; (ii) understand which Company products or services are most commonly deployed and preferred by customers and how customers interact with Company products or services; (iii) identify the types of Company services that may require additional maintenance or support; and (iv) comply with all regulatory, legislative and/or contractual requirements, provided in each case that such aggregated datasets and statistics will not enable Customer or any living individual to be identified.

9. Term & Termination.

9.1 Term. The initial term of this Agreement shall be for a period commencing on the Effective Date and ending on December 31 of the same calendar year as the Effective Date ("**Initial Term**"). For example, if the Effective Date is June 30, 2014, then the expiration date for the Initial Term will be December 31, 2014. This Agreement shall be automatically renewed for successive, subsequent one (1) year periods (each a "**Renewal Term**," collectively, the Initial Term and Renewal Terms, hereinafter referred to as the "**Term**") unless terminated in accordance with this Section 9.

9.2 Termination. Either party may terminate this Agreement: (a) for its convenience, upon the provision of thirty (30) days prior written notice to the other; (b) immediately, if a party materially breaches its obligations hereunder and, where such breach remains uncured for thirty (30) days following written notice of the breach; (c) immediately, if a party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors; or (d) as authorized pursuant to the terms of this Agreement.

9.3 General Obligations Upon Termination. Upon the termination of this Agreement for any reason, all licenses to the Company Products granted hereunder, including but not limited to those set forth in Sections 3.2 and 3.3, shall terminate and Referral Provider will immediately: (a) cease use of, and, if applicable, remove from Referral Provider Websites, any Company Marks (including, without limitation, the Referral Provider Level Logo, "**Program Level Logo**" means an online logo provided to Referral Provider by Company that indicates Referral Provider's then-current Partner Level), Company Links and any other materials provided by or on behalf of Company to Referral Provider pursuant to this Agreement or in connection with the Program; (b) return or destroy any and all copies of all promotional materials that incorporate a Program Level Logo or any other Company Marks; (c) cease any and all Company-related Marketing and marketing activities Referral Provider may be undertaking; or (d) other than for archival purposes as set forth in Section 10, return to Company or destroy all of Company's Confidential Information, including all copies of the Company Products. (Notwithstanding the foregoing, Referral Provider may continue to use Company's Confidential Information for the sole purpose of fulfilling its support obligations to any Customers existing as of the effective date of termination; provided, however, that Referral Provider shall only be

allowed to provide support to each such Customer until such Customers have been transitioned to Company or another partner. The terms of this Agreement shall remain in full force and effect as to each such Customer during such time. However, Referral Provider is responsible for ensuring all Referral Provider Customer Agreements (where applicable) are terminated at a reasonable and appropriate time.

9.4 Transitions and Post-Termination Customer Engagements. Nothing herein shall prevent Company from entering into any new arrangement or agreement directly with any Customer for continued use of the Company Products after the effective date of termination of this Agreement. After the termination of this Agreement, Referral Provider shall refer all inquiries regarding Company or the Company Products to Company. The parties agree to work in good faith to transition, within thirty (30) days of the effective date of termination of this Agreement, from Referral Provider to Company, the contact details for all Customers and Prospects.

9.5 No Financial Liability for Lawful Terminations. Neither Referral Provider nor Company shall be entitled to any severance, termination indemnities or other payments as a consequence of any lawful termination of this Agreement by the other party and both parties agree and acknowledge that they (a) do not expect and hereby waive any rights to severance, termination indemnities or similar payments; (b) enter into this Agreement without any expectation of any particular duration regarding the business relationship contemplated by this Agreement, and (c) will not make any investments specifically for purposes of this Agreement that they could seek reimbursement for from the other party in case of lawful termination.

9.6 Survival. Sections 3.6(c), 3.7, 3.8, 3.11, 3.14, 4, 6, 7.5 (excluding any licenses or rights to use each other's Marks), 8.3(a), 8.3(e), 8.4(f), 9.3, 9.4, 9.5, 9.6, 10, 11.3, 12, 13 and 14, and all other provisions that may reasonably be construed as surviving the termination or expiration of this Agreement shall survive any termination of this Agreement.

10. Confidentiality. The Company Products, and the terms of this Agreement are Confidential Information of Company and/or its third party licensors and vendors, as applicable. The Receiving Party shall use the Confidential Information of the Disclosing Party only for the purpose of fulfilling the Receiving Party's obligations under this Agreement. The Receiving Party shall not disclose or cause to be disclosed any Confidential Information of the Disclosing Party except to Representatives who require access to the Confidential Information to fulfill the Receiving Party's obligations under this Agreement and who are bound by obligations of confidentiality as strict as those in this Agreement. The Receiving Party will be responsible for any breach of this Agreement by its Representatives. Confidential Information shall not include any information that was: (a) previously known to the Receiving Party without obligation of confidence prior to disclosure by the Disclosing Party; (b) independently developed by or for the Receiving Party without use of or access to the Disclosing Party's Confidential Information; (c) acquired by the Receiving Party without restriction on disclosure from a third party which is not under an obligation of confidence with respect to such information; or (d) which is or becomes publicly available through no breach of this Agreement by the Receiving Party. A disclosure of Confidential Information as required by order of a court or governmental agency or as otherwise required by law shall not be a breach of this Agreement or a waiver of confidentiality for any other reason, provided that the Receiving Party promptly provides the Disclosing Party with prior written notice, to the extent permitted by law, to allow the Disclosing Party to seek a protective order or otherwise prevent or limit the disclosure. Each party acknowledges that failure to comply with the confidentiality obligations set forth herein will cause the other party irreparable harm for which the Disclosing Party may not have an adequate remedy; therefore, the Disclosing Party is entitled to seek equitable relief,

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including temporary restraining order(s) or preliminary or permanent injunction, in addition to all other remedies at law or in equity, for any violation or threatened violation of this Section. Within five (5) days after a Disclosing Party's request, the Receiving Party shall return or destroy, at the Disclosing Party's option, the Disclosing Party's Confidential Information. Notwithstanding anything to the contrary in this Agreement, the Receiving Party shall be entitled to retain one archival copy of the Confidential Information of the Disclosing Party for legal, regulatory or compliance purposes, and nothing shall require the erasure, deletion, alteration, or destruction of back-up tapes and other back-up media made in accordance with Receiving Party's reasonable document-retention policies and procedures.

11. Warranties.

11.1 Referral Provider Warranties. Referral Provider represents and warrants that: (a) this Agreement, including any exhibits attached hereto, has been duly and validly executed and delivered by Referral Provider and constitutes Referral Provider's legal, valid and binding obligation, enforceable against Referral Provider in accordance with the terms of this Agreement; (b) Referral Provider is the owner of Referral Provider Marks and has all the rights and power to license such Referral Provider Marks to Company hereunder; (c) the Referral Provider Websites and business complies, and shall continue during the Term to comply, with all material applicable laws, regulations, rules, decrees and other requirements of the United States, any government in the Territory and any other government or governmental authority having jurisdiction over Referral Provider based on its performance under this Agreement; (d) shall continue to meet all of the criteria for the then-current Program Level applicable to Referral Provider during the Term, and Referral Provider agrees to notify Company immediately if it fails at any time to do so; and (e) it shall not make any representations or warranties with respect to Company or the Company Products that are inconsistent with Company's MSA, the terms and conditions set forth in Section 3.6, the Documentation, promotional materials and other literature distributed by Company, including all liability limitations and disclaimers contained in such materials.

11.2 Company Warranties. Company represents and warrants that: (a) this Agreement, including any exhibits attached hereto, has been duly and validly executed and delivered by Company and constitutes Company's legal, valid and binding obligation, enforceable against Company in accordance with its terms; (b) Company is the owner of the Company's Marks and has all the rights and power to license such Company Marks to Referral Provider hereunder; and (c) the Company Products will perform materially in accordance with the Documentation for the duration specified in the MSA. If the Company Product does not conform to the warranty specified in Section 11.2(c) above, Referral Provider must notify Company within thirty (30) days of the breach of warranty. Company's entire liability and Referral Provider's sole and exclusive remedy for any breach of the limited warranties specified in this Section 11.2 will be for Company, in its reasonable determination to: (i) substantially correct any Errors (as defined in Exhibit B) in the Company Products; (ii) replace the non-complying portions of the Company Product with complying software; or (iii) if, in Company's judgment, (i) and (ii) above are not feasible by using commercially reasonable efforts, refund fees paid by Referral Provider in the twelve (12) months preceding the notice of breach for non-complying portions of the Company Product from the date on which Company receives notice of non-compliance from Referral Provider, if any, and terminate this Agreement pursuant to Section 9. The warranty above does not cover any non-conformances due to: (w) any Modifications, reconfiguration or maintenance of the Company Products performed by any party other than Company, including without limitation, any Modifications created by or for Referral Provider or Referral Provider's Customers; (x) any use of the Company Products on a system that does not meet Company's minimum standards for such

Company Products; (y) any software other than the Company Products, including, without limitation, any Third-Party Software or Referral Provider Solutions; or (z) any hardware.

11.3 Disclaimer of Warranties. EXCEPT AS PROVIDED HEREIN, COMPANY MAKES NO, AND EXPRESSLY DISCLAIMS ALL, WARRANTIES AND REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PROGRAM, THE COMPANY PRODUCTS, THE COMPANY MARKS, THE COMPANY WEBSITES, THE COMPANY LINKS AND ANY OTHER PRODUCTS, SOFTWARE, SERVICES OR OTHER MATERIALS OFFERED, SOLD OR LICENSED THROUGH OR IN CONNECTION WITH THE PROGRAM, INCLUDING (WITHOUT LIMITATION) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS. COMPANY MAKES NO REPRESENTATION OR WARRANTY THAT THE OPERATION OF ANY COMPANY PRODUCTS OR COMPANY WEBSITES WILL BE UNINTERRUPTED OR ERROR-FREE, AND COMPANY WILL NOT BE LIABLE FOR THE CONSEQUENCES OF ANY INTERRUPTIONS OR ERRORS.

12. Limitation of Liability.

12.1 Disclaimer of Consequential Damages. EXCEPT FOR BREACH BY REFERRAL PROVIDER OF SECTIONS 3.2, 3.3, 3.6(c) or 3.11, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, PROFITS OR DATA ARISING IN CONNECTION WITH THIS AGREEMENT OR RELATED TO OR IN CONNECTION WITH THE PROGRAM, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL LIABILITY IN THE AGGREGATE, WHETHER ARISING IN CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE) PRODUCT LIABILITY, MISREPRESENTATIONS OR OTHERWISE.

12.2 Limit on Direct Damages. EXCEPT FOR BREACH BY REFERRAL PROVIDER OF SECTIONS 3.2, 3.3, 3.6(c) or 3.11, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AGGREGATE LIABILITY OF COMPANY ARISING UNDER THIS AGREEMENT OR RELATED TO OR IN CONNECTION WITH THE PROGRAM FOR ANY REASON EXCEED THE TOTAL FEES PAID, BY COMPANY TO REFERRAL PROVIDER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY BEFORE THE DATE OF THE ACT OR OMISSION GIVING RISE TO THE LIABILITY. THIS LIMITATION APPLIES TO ALL LIABILITY IN THE AGGREGATE, WHETHER ARISING IN CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE) PRODUCT LIABILITY, MISREPRESENTATIONS OR OTHERWISE.

12.3 Limit on Causes of Action. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY REFERRAL PROVIDER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

12.4 Allocation of Risk. BOTH PARTIES UNDERSTAND AND AGREE THAT THE REMEDIES AND LIMITATIONS HEREIN (INCLUDING, WITHOUT LIMITATION, SECTION 9.3 - EFFECTS OF TERMINATION, SECTION 11.3 - DISCLAIMER OF WARRANTIES AND THIS SECTION 12 - LIMITATION OF LIABILITY) ALLOCATE THE RISKS BETWEEN THE PARTIES AS AUTHORIZED BY APPLICABLE LAWS. THE FEES HEREIN REFLECT, AND ARE SET IN RELIANCE UPON, THIS ALLOCATION OF RISK.

13. Responsibility for Third Party Claims.

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13.1 Company. Company shall, at its expense, (a) defend or settle any third party claims, actions and demands brought against Referral Provider where the third party claimant expressly asserts that (i) the Company Product infringes such third party's trademarks or copyrights; or (ii) Company misappropriated such third party's trade secrets in the development of the Company Product; and (b) pay all damages finally awarded therein against the Referral Provider indemnified parties or agreed upon in settlement by Company (including other reasonable costs incurred by Referral Provider or its Affiliates, including reasonable attorneys' fees, in connection with enforcing this Section 13.1), subject to the exclusions (1)-(5) set forth below. Company has no obligation to Referral Provider under this Section for any claim, action or demand to the extent that such claim, demand or action is based on: (1) Third Party Software, Referral Provider Solution or Referral Provider Data; (2) Modifications where the Company Product would not infringe, including any by way of example, Modifications created by or for Referral Provider or Referral Provider's Customers, but excluding Modifications made by Company itself; (3) combination of the Company Product with other products, processes or materials where the Company Product would not infringe except for such combination; (4) where Referral Provider continues to use the Company Product after being notified of allegedly infringing activity or being informed of Modifications that would have avoided the alleged infringement; or (5) where Referral Provider's use of the Company Product is not strictly in accordance with this Agreement. In the event that Company believes the Company Product, or any part thereof, may be the subject of an infringement or a misappropriation claim as to which this Section 13.1 applies, then Company may, in its discretion and at its sole expense: (1) procure for Referral Provider the right to continue using such Company Product or any applicable part thereof, (2) replace such Company Product, or infringing part thereof, with a non-infringing version (or part thereof), (3) modify such Company Product, or infringing part thereof, so as to make it non-infringing, or (4) in the event that (1), (2) or (3) are not commercially feasible, then Referral Provider shall have the right to terminate this Agreement solely with respect to the infringing Company Product, and, notwithstanding anything to the contrary in this Agreement, have Company refund to Referral Provider the pro rata unused portion of any pre-paid subscription fees. THIS SECTION 13.1 STATES COMPANY'S SOLE LIABILITY TO, AND REFERRAL PROVIDER'S EXCLUSIVE REMEDY FOR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS OF ANY KIND IN CONNECTION WITH THE COMPANY PRODUCTS OR SERVICES DELIVERED UNDER OR IN CONNECTION WITH THIS AGREEMENT.

13.2 Referral Provider. Referral Provider shall, at its expense, (a) defend or settle any third party claims, actions and demands brought against Company and its Affiliates, officers, directors, employees and agents; and (b) pay all damages finally awarded therein against the Company indemnified parties or agreed upon in settlement by Referral Provider (including other reasonable costs incurred by Company or its Affiliates, including reasonable attorneys' fees, in connection with enforcing this Section 13.2) arising from: (i) Referral Provider's breach or violation of Referral Provider's responsibilities under Sections 3.6, 3.11, 4.1(c) or, as applicable, 8.3, (ii) claims that Customer Data or Company's transmission or hosting thereof infringes or violates the rights of a third party, (iii) claims that Referral Provider's or its Subscription Users' use of the Company Product or services in violation of this Agreement infringes or violates the rights of such third party, (iv) claims that Referral Provider failed to comply with applicable laws, rules or regulations in its performance of this Agreement; or (v) claims by Customers that relate to, are based on or arise from Referral Provider's provision of, or failure to provide, any professional or support services or deliverables of any kind to Customers in connection with the Company Products.

13.3 Indemnification Procedures. The indemnifying party will pay any settlement amounts it authorizes including all costs, damages and attorneys' fees that a court finally awards if the other party: (a) promptly provides the indemnifying party with written notice of the

claim; (b) allows the indemnifying party to control the defense of the claim and settlement negotiations (provided that the indemnifying party shall not enter into any settlement that affects the indemnified party's rights or interests or admits liability or wrongdoing on the part of the indemnified party without the indemnified party's prior written approval); and (c) provide the indemnifying party with reasonable assistance in the defense of such claim, at the indemnifying party's expense. The indemnified party may participate in the proceedings at the indemnified party's option and expense.

14. General Provisions.

14.1 Relationship of Parties. Company and Referral Provider are independent contractors, and nothing in this Agreement or any attachment hereto will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. Referral Provider has no authority to make or accept any offers or representations on behalf of Company, and agrees not to make any statement, whether on Referral Provider Websites or otherwise, that reasonably would contradict anything in this Section. If and to the extent Referral Provider's Territory includes Switzerland or any member state of the European Economic Area ("EEA"), Referral Provider shall not market, promote or sell any Company Products, directly or indirectly, to Prospects or Customers that are based or intend to use the Company Products outside of Switzerland or the EEA.

14.2 Export Compliance. Referral Provider acknowledges and agrees that the Company Products are subject to all applicable export control laws and regulations, including, without limitation, those of the United States Government. Referral Provider shall strictly comply with all applicable export control laws and regulations related to the Company Products, and all licenses and authorizations issued under such laws and regulations. Referral Provider shall fully cooperate with Company in securing any export licenses and authorizations required under applicable export control laws and regulations. Referral Provider agrees that it shall not, and shall cause its Representatives, employees, agents, contractors and customers to agree not to, export, re-export, divert, release, transfer, or disclose any such Company Products, or any direct product thereof, to any prohibited or restricted destination, end-user or end-user, except in accordance with all relevant export control laws and regulations. Referral Provider shall make its records available to Company upon reasonable request to permit Company to confirm Referral Provider's compliance with its obligations as set forth in this Section 14.2.

14.3 Commercial Computer Software. The Company Products and related modifications were fully developed at private expense and are commercial computer software as defined in FAR 2.101. Any related documentation, technical data, or services are also commercial. In accordance with FAR 12.212 and DFARS 227.7202, all rights conferred in the Company Products, related documentation, technical data, services, or any deliverable to the United States Government are specified in this Agreement. All other uses are prohibited and no ownership rights are conferred.

14.4 Compliance with Anti-Corruption Laws. Referral Provider (including its officers, directors, employees, agents and any person under its control) shall comply with, and shall require its contractors, subcontractors and any contingent workers to comply with, any and all applicable anti-corruption laws and regulations, including but not limited to, the U.S. Foreign Corrupt Practices Act ("FCPA"). Without limiting the foregoing, Referral Provider (including its officers, directors, employees, agents and any person under its control) shall not, directly or indirectly, make, promise to make, or accept any payment, offer or transfer of anything of value in connection with this Agreement or any other business transaction relating to Company, to: (a) anyone working in an official capacity for a non-U.S. government, government entity (including employees of government

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owned or controlled corporations) or public international organization; (b) any political party, party official, or candidate for political office; (c) an intermediary for payment to any of the foregoing; (d) any officer, director, employee of any actual or potential customer of Company; (e) any officer, director or employee of Company or any of its Affiliates; or (f) any other person or entity if such payment, offer or transfer would violate the laws of the country in which made or the laws of the United States of America. It is the intent of the parties that no payments, offers or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining or retaining business or directing business to any person or entity. Referral Provider shall cooperate fully in Company's efforts to enforce the terms of this provision, including but not limited to: (i) providing upon request from Company a certification of compliance with this provision in the form requested by Company; and (ii) providing reasonable co-operation at Referral Provider's expense with respect to any investigation relating to this provision.

14.5 Assignment. Referral Provider understands that it has been appointed by Company because of Referral Provider's level of expertise and commitment to the Program. Consequently, Referral Provider may not assign, sublicense or otherwise transfer this Agreement, or any attachment hereto, or any of its rights or obligations hereunder, by operation of law or otherwise, without Company's prior written consent, which may be withheld in Company's sole and absolute discretion. Any assignment in derogation of the foregoing will be void. This Agreement will be binding on and inure to the benefit of, the parties and their respective successors and permitted assigns.

14.6 Manner of Giving Notice. Notices regarding this Agreement shall be in writing and addressed to Referral Provider at the address Referral Provider provides, or, in the case of Company, when addressed to Company Inc., Attn. General Counsel, 10050 North Wolfe Road SW2-130, Cupertino, CA 95014 USA. Notices regarding the Company Product in general may be given by electronic mail to Referral Provider's e-mail address on record with Company.

14.7 Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations) due to circumstances beyond such party's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (excluding those involving such party's employees), service disruptions involving hardware, software or power systems not within such party's reasonable control, and denial of service attacks.

14.8 Attorney's Fees. In any action related to this Agreement, if any party is successful in obtaining some or all of the relief it is seeking or in defending against the action, the other party shall pay, on demand, the prevailing party's reasonable attorneys' fees and reasonable costs.

14.9 Equitable Relief. Except as otherwise provided, remedies specified herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

14.10 Choice of Law and Jurisdiction.

(a) **Governing Law.** This Agreement and any dispute arising out of or in connection with this Agreement ("Dispute") will be governed as to all matters, including, but not limited to the validity, construction and performance of this Agreement, by and under the laws of the State of California, United States, without giving effect to conflicts of law principles thereof and excluding the rules on the UN Convention on contracts for the international sale of goods (CISG).

(b) **Arbitration.** Except as provided in Subsection (c), all Disputes shall be finally resolved by binding arbitration before three (3) arbitrators pursuant to the rules ("Rules") and under the auspices of the International Chamber of Commerce (ICC). Such arbitration shall be held in San Francisco, California, United States. In accordance with the Rules, each party shall select one arbitrator and the two arbitrators so selected shall select the third arbitrator. The arbitrators shall be knowledgeable in the chosen law and the software industry. At either party's request, the arbitrators shall give a written opinion stating the factual basis and legal reasoning for their decision. The parties, their Representatives, and any other participants shall hold the existence, content, and result of arbitration in confidence. The arbitration proceedings shall be conducted in the English language.

(c) **Right To Seek Injunctive Relief.** Either party may, at its sole discretion, seek interim judicial relief in any court of competent jurisdiction (including, but not limited to, interim injunctive relief). Also, the provisions of this Section 14.11 may be enforced by any court of competent jurisdiction.

14.11 Interpretation/Severability. If any provision of this Agreement is found invalid, unlawful or otherwise unenforceable under applicable law, such provision will be replaced to the extent possible with a provision that comes closest to the intent of the original provision and all other provisions of the Agreement shall continue in full force and effect. This Agreement is the result of a free negotiation between the parties. All terms shall be interpreted in accordance with their intended meanings and any ambiguities shall not be interpreted for or against a party, regardless of whether or not that party is designated as the drafter.

14.12 Waiver. The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. The right to require performance of any duty hereunder is not barred by any prior waiver, forbearance or dealing.

14.13 Official Language. The Agreement, any exhibits attached hereto or any materials referenced herein (the "**Collective Agreements**") entered into between Referral Provider and Company shall be in English. Any translations of the Collective Agreements that Company may provide to Referral Provider, are for Referral Provider's convenience only, and in all cases, unless otherwise prohibited by law, the English version of the Collective Agreements will govern the relationship between the parties. For the avoidance of doubt, if there is any contradiction between the English language version of the Collective Agreements and the translations, the English language version of the Collective Agreements will govern.

14.14 Entire Agreement. This Agreement, including the exhibits attached hereto and documents incorporated by reference herein constitute the entire agreement between the parties with respect to the subject matter of this Agreement, and supersedes and merges all prior and contemporaneous proposals, understandings and all other agreements, oral and written, between the parties relating to the subject matter of this Agreement. For avoidance of doubt, this Agreement will supersede any and all prior agreements, including Partner Program Agreements, executed between Company and Referral Provider.

14.15 Independent Investigation. Referral Provider acknowledges that Referral Provider has read this Agreement and any attachment hereto, and has had an opportunity to consult with Referral Provider's own legal advisors if Referral Provider so desired, and agrees to all its terms and conditions. Referral Provider has independently evaluated the desirability of participating in the Program and is not relying on any representation, guarantee, or statement other than as set forth in this Agreement or any attachment hereto.

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14.16 Electronic Signatures; Counterparts. This Agreement may be executed in counterparts and/or by facsimile or electronic signature and if so executed shall be equally binding as an original copy of this Agreement in ink by both parties.

15. Definitions.

15.1 "Affiliate" means a company that is Controlled by, under common Control with or Controlling such company during the period of such control. For purposes of this definition, "**Control**" means ownership, directly or indirectly, of more than 50% of the voting securities that vote for the election of the board of directors or other managing body.

15.2 "API" means application programming interfaces provided by Company as part of the Company Product, which set forth rules and specifications that Third Party Software may utilize to access Customer Data in accordance with this Agreement.

15.3 "Confidential Information" means non-public information that the Disclosing Party provides to the Receiving Party during the Term that is identified in writing at the time of disclosure as confidential or that the Receiving Party knows or reasonably should know is considered confidential by the Disclosing Party given the nature of the information and the circumstances of disclosure.

15.4 "Copyleft License" means a software license that requires that information necessary for reproducing and modifying such software must be made available publicly to recipients of executable versions of such software (see, e.g., GNU General Public License and <http://www.gnu.org/copyleft/>).

15.5 "Critical Control Software" means functionality that reports the number of authorized Subscription Users, and provides Company and Referral Provider (where applicable) with the ability to receive and monitor certain Company Product usage information.

15.6 "Customer" means any person or entity located in the Territory that buys Company Products for ordinary internal business usage and not for further distribution or resale.

15.7 "Customer Data" means any data, information or material submitted by a Customer to, or stored by a Customer in, a database related primarily to a Company Product.

15.8 "Data Controller" means the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of Personal Data; where the purposes and means of processing are determined by national or European Community laws or regulations, the controller or the specific criteria for his nomination may be designated by national or European Community law.

15.9 "Disclosing Party" means the party that provides Confidential Information to the other party during the Term.

15.10 "Documentation" means online description of the functions and features of Company Products, and instructions for installation, support, use, and/or maintenance of Company Products.

15.11 "Evaluation License Agreement" means Company's then-current Evaluation License Agreement (as may be amended from time to time) available at the Partner Portal.

15.12 "Feature Releases" means a Company Product update which includes both fixes to known defects and introduces new or modified application behavior. Feature Releases are applicable to On-Demand Subscriptions of Company Products.

15.13 "Fees" means any and all amounts payable from Referral Provider to Company, including Program Fees, Customer Subscription fees, non-standard support fees and fees or travel and lodging expenses for other services rendered by Company or its subcontractors.

15.14 "Forked Software" means modifications to any open source version of the Original Code to develop a separately maintained source code program (a) with features not present in the Original Code or (b) where modifications to the Original Code are not automatically integrated with the Original Code).

15.15 "Intellectual Property Rights" means any patents and applications therefor, copyrights, trademarks, service marks, trade names, domain name rights, trade secret rights, and all other intellectual property rights.

15.16 "Lead Registration Form" means the Partner Portal page located at: [\[website\]](#), where Referral Provider is required to enter certain required information about each Prospect such as: (a) first name; (b) last name; (c) email address; (d) phone number; (e) company name; (f) country; (g) Company competition (as specified in the applicable drop down menu), if any; and (h) the expected number of Subscription Users.

15.17 "Maintenance Releases" mean an update to the Company Product which includes fixes to known defects and does not intentionally introduce any new or modified application behavior. Maintenance Releases are applicable to on-demand Subscriptions of Company Products.

15.18 "Marks" means Referral Provider Marks and Company Marks, as applicable.

15.19 "Modifications" means any work based on or incorporating all or any portion of the Company Product, including, without limitation, modifications, enhancements and customizations to the Company Product developed by Company, Referral Provider, a third party on either such party's behalf or any combination of such parties.

15.20 "Orders" means orders placed via the Partner Portal or an Order Form.

15.21 "Order Form" means the documents for purchases of Company Products hereunder, including order notifications and order confirmation documents (either in writing or via the Web), that are agreed to by Company, or entered into between Company and Referral Provider, from time to time.

15.22 "Original Code" means any and all source code for the Company Product.

15.23 "Referral Provider Mark" means Referral Provider's logos, trademarks, trade names and similar identifying material. For the avoidance of doubt, in no event will the Program Level Logo be considered a Referral Provider Mark.

15.24 "Partner Portal" means, collectively, the online resources provided by Company to Referral Provider so that Referral Provider may, among other things, process Orders. The Company Partner Portal may be accessed by Referral Provider at the following URL: http://www.Company.com/partners/partner_portal.

15.25 "Personal Data" means any information relating to an identified or identifiable natural person ("data subject"); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors

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specific to his physical, physiological, mental, economic, cultural or social identity.

15.26 "Program Benefits" means the benefits available to Referral Provider based upon Referral Provider's then-current applicable Program Level. The current Program Benefits are described at the following URL: [\[website\]](#).

15.27 "Referral Provider Solution" means an offering to one or more Customers that is created in accordance with this Agreement by Referral Provider, which may incorporate, among other things, Modifications made by Referral Provider or a third party on its behalf.

15.28 "Referral Provider Users" means those employees of Referral Provider who are authorized by Referral Provider to use Company Products in accordance with the terms of this Agreement.

15.29 "Referral Provider Websites" means websites owned and operated by Referral Provider and/or its Affiliates and specified in Exhibit A.

15.30 "Software Releases" means updates and upgrades to Company Products which Company may provide from time to time. Software Releases may be comprised of (a) Long-Term Supported Releases; (b) Maintenance Releases; and/or (c) Feature Releases.

15.31 "Subscription Term" means the period of time during which Customer may access the applicable Company Product as set forth in an Order Form.

15.32 "Subscription User" means an individual employee, contractor or agent of the Customer authorized by Customer to use the applicable Company Product for which a subscription has been purchased and who has been given a user identification and password.

15.33 "Company Link" means a Company-supplied hypertext link containing a particular Company logo, words and/or text corresponding to the applicable Program Level.

15.34 "Company Mark" means Company's logos, trademarks, trade names and similar identifying material, including, without limitation, all Program Level Logos.

15.35 "Company Product" means any software that Company supplies, licenses or sells from time to time during the Term, including any software that is downloadable from a third party app store (e.g., Sugar Mobile).

15.36 "Company URL" or "Company Websites" means websites (including Company.com and any sub-domains thereof) that are owned and operated by Company and/or its Affiliates.

15.37 "Supplier Code of Conduct" means Company's then-current code of conduct applicable to its third party vendors and partners that establishes a policy and requirements for conducting business in an honest, ethical and legal manner. A courtesy copy of the Supplier Code of Conduct is attached as [Exhibit C](#). Any revised versions will be made available on the Partner Portal.

15.38 "Taxes" means any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including VAT (subject to reverse charge), GST (subject to reverse charge), excise, sales, use or withholding taxes.

15.39 "Territory" means the region identified in [Exhibit A](#) in which Referral Provider is authorized to Market the Company Products.

15.40 "Third Party Software" means online, Web-based applications and offline software products that are developed by third parties, and may interoperate with the Company Product, the use of which software is governed by the applicable terms and conditions specified by such third party.

Referral Provider Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date set forth above.

[COMPANY]

REFERRAL PROVIDER:

By: _____
(Authorized Signature)

By: _____
(Authorized Signature)

Name: _____
(Print or Type)

Name: _____
(Print or Type)

Title: _____

Title: _____

Date: _____

Date: _____

Referral Provider Agreement

EXHIBIT A

ADDITIONAL TERMS

Summary of Key Referral Provider Information

Billing Information		
	Contact Name	
	Title	
	Address	
	Phone Number	
	Email Address	
Account Contact Information		
	<input type="checkbox"/> Same as billing information (if different, complete the below fields)	
	Contact Name	
	Title	
	Address	
	Phone number	
	Email Address	
Website Address(es)		
Territory		
Program Fee for Initial Term	[\$xxxxx]	This fee may be pro-rated by Company based on when the Referral Provider joins the Program during the then-current calendar year.
Program Level (check one)	<input type="checkbox"/> Basic <input type="checkbox"/> Advanced	See Section 1 below for further details on the applicable program.

1. **Referral Fees Levels:**

A. Definitions.

“**Net New Revenue**” means the net revenue received by Company, within a calendar year, for all New or Additional Subscriptions.

“**New or Additional Subscriptions**” means Orders for new Customers or Orders for additional end users to current Customer subscriptions, in each case, accepted by Company.

“**Referral Fee**” means, depending on the Referral Provider’s Program Level status, the amount of Subscription Fees for Customers actually received by Company multiplied by the applicable percentage amount owed to Referral Provider under the Program.

B. Basic Level.

Eligibility	A New Referral Provider entering the Program or a Referral Provider with Net New Revenue that is less than \$xxxx USD within a calendar year will be classified as a Basic Level Referral Provider.
New or Additional Subscriptions	Basic Level Referral Providers will be eligible for a [xx%] Referral Fee on any New or Additional Subscriptions within the Territory.
No Renewal Subscriptions	Unless otherwise agreed to by the parties, Referral Providers in the Basic Level are not eligible for any Referral Fees for renewals of Customer Subscriptions and are owed no fee under this Agreement.

Referral Provider Agreement

C. Advanced Level.

Eligibility	Subject to the terms set forth in Section 2 below, a Referral Provider with Net New Revenue exceeding \$xxx USD is eligible for the benefits under the Advance Level.										
New or Additional Subscriptions	<p>Subject to the terms set forth in Section 1(E) and Section 2 below, Referral Provider will be entitled to receive the Referral Fee which corresponds to the Net New Revenue level achieved by Referral Provider during a calendar year for all New or Additional Subscriptions (“Net New Revenue Threshold”):</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Net New Revenue Thresholds for New or Additional Subscriptions</th> <th style="text-align: center;">Referral Fee (%)</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	Net New Revenue Thresholds for New or Additional Subscriptions	Referral Fee (%)								
Net New Revenue Thresholds for New or Additional Subscriptions	Referral Fee (%)										
Renewal Subscriptions	During the Term, Advanced Level Referral Providers shall be eligible for a Referral Fee equal to [xx%] of the Subscription Fee for any Customer renewal of a Subscription.										

D. Right to Modify Discount Percentages. Company reserves the right to modify the Referral Fee percentages, from time to time, at its sole discretion. Company agrees to use commercially reasonable efforts to notify Referral Provider of any modifications to these Referral Fee percentages by posting a notice on the Partner Portal or sending an email to the Account Contact listed above. Company shall not be liable to Referral Provider for any modification of the Referral Fee percentages noted above. If Referral Provider does not agree with Company’s modifications to the Referral Fee percentages, Referral Provider may continue on the Program’s then-current Referral Fee terms until expiration of the then-current Term, at which point, Referral Provider will be required to either: (i) renew the Agreement under the modified Referral Fee percentages; or (ii) terminate Referral Provider’s participation in the Program.

E. Determining Referral Fee Level. The Referral Fee level shall be determined by Company based on the applicable Net New Revenue Threshold attained during the prior calendar year. The parties agree that Referral Provider may be eligible for an increased Referral Fee for New or Additional Subscriptions during the calendar year, if Referral Provider meets or exceeds the applicable Net New Revenue Thresholds identified above during the current Term. Referral Provider acknowledges that it may be lowered to a decreased Referral Fee if Referral Provider’s Net New Revenue during a prior calendar year does not meet the related Net New Revenue Threshold. Referral Provider understands and acknowledges that the Referral Fee percentages and Net New Revenue Thresholds for any Renewal Term may increase or decrease in any Renewal Term upon notice to Referral Provider.

2. Confirmation Process to move Levels and/or Revenue Thresholds.

2.1 It shall be Referral Provider’s obligation to notify Company when an Order will cause Referral Provider to exceed a higher Net New Revenue Threshold or change Program Levels (from Basic to Advanced). Referral Provider understands that it will not be eligible for increased Referral Fees or eligible to move to the Advanced Level, unless and until Company has: (a) confirmed Referral Provider’s eligibility to receive the higher Referral Fee or move to the Advanced Level; and (b) Referral Provider has received written notice from Company confirming such eligibility (collectively, (a) and (b) the “**Company Confirmation Process**”).

2.2 Upon Company’s written confirmation of such an event, the Order causing the higher Net New Revenue Threshold to be exceeded and all subsequent Orders will be subject to the higher Referral Fee. For the avoidance of doubt, the change in Referral Provider’s Level or Referral Provider Margin, WILL NOT: (a) be effective until the Company Confirmation Process has been completed; and (b) have any effect whatsoever on any Order(s) placed prior to completion of the Company Confirmation Process.

2.3 “Basic Level” referral providers that have been approved by Company to move to the “Advanced Level” are entitled to the Referral Fee on renewals of all Customers to which Referral Provider is listed as the Referral Provider of record.

3. Order Process Terms. Referral Provider will submit the Opportunity to Company and Company will work directly with the Customer to sign the MSA and close the Opportunity. Upon completion of the Order, Company will electronically deliver the Company Product directly to the Customer. Referral Provider shall be entitled to the applicable Referral Provider Referral Fee when Company receives full payment of the Subscription Fee from such Customer. Company shall have the right to accept, reject or annul any Opportunity submitted by Referral Provider, as applicable, in its sole discretion. No Opportunity shall be binding upon Company unless and until accepted by Company.

Referral Provider Agreement

EXHIBIT B

SUPPORT SERVICES

Referral Provider shall be entitled to the following Support Services during the Term. Company hereby reserves the right to modify these Support Services terms, from time to time, at its sole discretion. Company shall use commercially reasonable efforts to notify Referral Provider of any material modifications to the Support Services by posting a notice on the Partner Portal or sending an email to the Referral Provider Account Contact listed in Exhibit A. Company shall not be liable to Referral Provider nor to any third party for any modification of the Support Services terms. If not defined elsewhere in this Agreement, capitalized terms used in this Exhibit have the meaning set forth in Section 7 below.

1. GENERAL

1.1 **Duties and Responsibilities of the Parties.** Referral Provider understands and agrees that it will be responsible for providing Support to its Customers and their Subscription Users and that any communications with Customers or support information or documentation distributed by Referral Provider to its Customers and their Subscription Users, will clearly and conspicuously state that Customer and its Subscription Users should call Referral Provider in connection with such Support. Referral Provider also understands and agrees: (a) that Customers with less than five (5) Subscription Users are only eligible for Basic Support; (b) to provide Company with the details of Referral Provider Support program; and (c) that it will be required to share Customer contact information with Company in order for Company to assist Referral Provider with Support issues that may arise.

The Company Support Program for Referral Provider is comprised of three tiers:

- ***Tier 1 Support Responsibilities:*** Regardless of whether the applicable Company Product is deployed on-site or on-demand, Referral Provider's Support Obligation shall include providing Tier One Support to Referral Provider's Customers.
- ***Tier 2 Support Responsibilities:*** If the applicable Company Product for a specific Customer is deployed On-Site, then Referral Provider's Support Obligation shall include providing Tier Two support to such Customer. If the applicable Company Product is deployed On-Demand, then Company shall provide Tier Two Support to such Customer; however, Referral Provider's Support Obligation under such circumstances shall be to provide reasonable assistance to Company in connection with Company's provision of Tier Two Support.
- ***Tier 3 Support Responsibilities:*** Regardless of whether the applicable Company Product is deployed On-Site or On-Demand, Company will provide Tier Three Support to Referral Provider for each of Referral Provider's Customers.

1.2 **Timed Response for Errors reported by a Customer to Referral Provider.** For reports of Priority 1 Errors (as defined below), Referral Provider shall make commercially reasonable efforts to notify Company of a Priority 1 Error within thirty (30) minutes of the Customer's incident report (if no workaround or other fix is known to Referral Provider and Company). For Error reports of any other Priority level, Referral Provider will make commercially reasonable efforts to notify Company of the reported Error within four (4) hours. Company's Support response clock will start when Company receives an Error report from Referral Provider, rather than at the time that the Customer logs an incident with Referral Provider.

If the nature of a reported Error requires that Company communicate directly with one of Referral Provider's Customers, then Company's Support staff will make reasonable efforts to notify Referral Provider prior to any such direct communication. Notwithstanding the foregoing, Company reserves the right to communicate directly with Referral Provider's Customer whenever it deems that direct communication is necessary to fulfill the parties' Support Obligations satisfactorily.

1.3 **Ensuring optimal flow of information.** Referral Provider shall ensure that its Company Product support staff becomes and remains reasonably well trained regarding: (a) Company Products; and (b) the applicable Company procedures for fulfilling Referral Provider's specific Support Obligations. Correspondingly, Company shall provide Referral Provider with access to relevant technical and Customer support process documentation sufficient to aid Referral Provider in fulfilling its Support Obligations.

Company Support is not required to conduct technical Support communications in any language other than English. If Support communications break down due to language barriers and Referral Provider fails to provide personnel with sufficient local language skills to ensure efficient technical Support communication, then Company Support personnel may continue to endeavor to provide Support but Company reserves the right to suspend such Support until reasonably efficient technical Support communication is established.

2. **REIMBURSEMENT FOR UNWARRANTED ON-SITE SUPPORT REQUESTS.** If Referral Provider requests that Company provide Support services on-site (at Referral Provider's, Customer's or a third party's premises) and, after performing such on-site Support services, Company reasonably determines that no Error was present or the issues encountered were not attributable to the Company Product covered by Support Services, then Referral Provider hereby agrees to reimburse Company (a) on an hourly basis for service performed by Company (at Company's then current consulting rates); and (b) any and all reasonable travel and lodging expenses incurred by Company in providing the requested on premises Support services. Travel time will be charged at Company's then current consulting rates.

Referral Provider Agreement

3. **SUPPORT SERVICES PLANS.** Company shall make available the following Support services plans corresponding with the Company Product:

Basic Level Support Services Plan	<ul style="list-style-type: none"> ● Access to online Support Portal available at [https://support.Company.com] as a reporting method ● Access to email as a reporting method ● Access to online discussion forums or “Customer Forums” ● 4 hour response for Priority 1 reported issues ● No telephone support ● Unlimited number of cases ● Unlimited Authorized Contacts
Advanced Level Support Services Plan	<ul style="list-style-type: none"> ● All features of the “basic” support services plan (described above) ● Telephone support available during Working Hours ● 2 hour response for Priority 1 reported issues

4. RESPONSE TIMES

Priority Definitions

Priority 1	Business critical (only available for production systems). Error that results in a complete loss of functions of the Company Product; a significant function of the Company Product that is not available; and no workaround exists. Does not include installation issues or problems in staging environments.
Priority 2	Severe impact. An Error that significantly degrades a major function of the Company Product.
Priority 3	Degraded operations. An Error that results in slight impairment in functions of the Company Product. Includes feature requests and cosmetic defects.

Priority Response Times

Company will use commercially reasonable efforts to respond within the Response Time set forth below in accordance with (a) the specific priority level assigned to the Error by Company; and (b) the Support Services Plan purchased by Referral Provider or Referral Provider's Customer.

Priority Type	Basic Level Support Services Plan	Advanced Level Support Services Plan
Priority 1 Response Time	4 Working Hours	2 Working Hours
Priority 2 Response Time	Next Working Day	4 Working Hours
Priority 3 Response Time	2 Working Days	Next Working Day

5. ADDITIONAL INFORMATION REGARDING REFERRAL PROVIDER SUPPORT OBLIGATIONS

5.1 Referral Provider shall be responsible for its Support costs. Referral Provider, and not Company, will be responsible for, and will bear all expenses associated with fulfilling its Support Obligations to Customers.

5.2 Referral Provider to provide Company with reasonable access to the Company Product installation. When submitting an incident to Company Support, upon Customer's prior consent, Referral Provider shall, wherever reasonably practicable and necessary (given the nature of the incident), provide secure shell (SSH) or remote desktop protocol (RDP) access to the installation environment or, alternatively, provide Company Support with the Customer's instance files, server configuration files, database and server logs in order for Company to fulfill its Support Obligations under this Agreement.

5.3 Company provides Support services to Authorized Contacts. Referral Provider agrees that only Authorized Contacts will contact Company for Support services. If Company's technical Support representatives are being contacted by Customer or any of Customer's Subscription Users in circumstances where Referral Provider's Support Obligation makes Referral Provider the correct Support contact, then, upon Company's request, Referral Provider shall make reasonable efforts to minimize such Customer contact.

5.4 Authorized Contacts Must be Competent and Trained. Referral Provider agrees that its Authorized Contacts will have sufficient technical expertise, training and/or experience for Referral Provider to perform its Support Obligations. Referral Provider will designate for Company, in writing and/or e-mail, its list of Authorized Contacts within one (1) week of the Effective Date of the Agreement.

5.5 Referral Provider to Keep Customers on Supported Versions of the Company Products. Referral Provider understands that Support Services for the Company Products will end according to the End of Life Policy. Prior to the End of Support Dates indicated therein, Referral Provider agrees to instruct its Customers to upgrade to the latest supported version of the Company Product in order to continue receiving Support Services.

Referral Provider Agreement

6 ADDITIONAL INFORMATION REGARDING COMPANY'S OBLIGATIONS

6.1 Company to Provide Error Corrections. For Tier 3 Support, Company will make commercially reasonable efforts to correct any Errors that an Authorized Contact properly reports to Company and that Company is able to reproduce in its own execution environment. Where applicable, if an Error report is received by Company during the applicable Working Hours, then Company will use reasonable efforts to communicate with the Authorized Contact about the reported Error within the applicable Response Times for the Priority Level finally assigned by Company. The Authorized Contact must provide sufficient information to Company to enable Company to duplicate the Error prior to Company commencing any Tier 3 Support services. Company will use reasonable efforts to provide a Maintenance Patch or a specific action plan for how Company will address the Error and an estimate of how long it will take to rectify the defect or Error.

6.2 Company will Provide Generally Available Maintenance Patches and Maintenance Releases. Provided that Referral Provider is in compliance with its obligations under this Agreement, Referral Provider and Referral Provider's Customers will be entitled to receive any Maintenance Patches and Maintenance Releases to the Company Product made generally available by Company during the Subscription Term. Maintenance Patches and Maintenance Releases released during the Subscription Term shall be made available in a manner determined by Company, such as on a Company-designated web site for access or electronic download by Referral Provider or Customer.

Company shall provide Referral Provider and its Customers with instructions regarding registration for such access or electronic downloads. When a Maintenance Patch or Maintenance Release is available, Referral Provider and its Customers will receive notice from Company indicating such availability. The use of each Maintenance Patch or Maintenance Release shall be governed by the terms of Customer's applicable subscription agreement (i.e., the MSA or the Referral Provider Customer Agreement).

6.3 Company may use Subcontractors for Support. Company Support services shall be provided by Company or Company's third party support services providers.

6.4 Company to provide an Error reporting method. Company will provide Referral Provider with access to an online submission system (the "Support Portal") that Authorized Contacts may use to report Errors and the proposed Priority Level. Only Authorized Contacts may use the Support Portal and solely for the purpose of tracking the status of reported Errors. Referral Provider must comply with all troubleshooting and technical database procedures relevant to an Error prior to contacting Company.

7 ADDITIONAL DEFINITIONS

"**Authorized Contacts**" means qualified Referral Provider personnel, who have been selected by Referral Provider and approved by Company, and who are authorized to contact Company for Support on behalf of a Customer of Referral Provider.

"**Errors**" means one or more documented and reproducible deviations in the applicable unmodified Company Product from the applicable specifications shown in Company's documentation accompanying such Company Product.

"**Maintenance Patch**" means a correction, workaround and/or patch to the Company Products to correct a particular Error. A Maintenance Patch is not a Maintenance Release or Upgrade.

"**Maintenance Release**" means a revision to the applicable Company Product (designated by Company by a change in the version number to the right of the decimal place) or patch that improves the functionality of such Company Product, and may contain minor new features or enhancements. A Maintenance Release is not an Upgrade.

"**Response Time**" means the amount of elapsed time between the reporting by an Authorized Contact of an Error and the response from a Company technical Support engineer acknowledging receipt of the reported Error from the Authorized Contact.

"**Support**" means Tier One Support, Tier Two Support and/or Tier Three Support, as applicable.

"**Support Obligation**" means Referral Provider's obligation to provide Support to its Customers.

"**Tier One Support**" means the Support Services provided to Referral Provider's Customers in response to an initial notification of a suspected Error, including support call receipt, support entitlement verification, call screening, installation assistance, problem identification and diagnosis, and reasonable efforts to create a repeatable demonstration of an Error.

"**Tier Two Support**" means the Support Services provided to Referral Provider's Customers when a resolution is not known to exist. Tier Two Support generally includes comprehensive attempts to replicate a reported problem to determine if the reported problem is indeed an Error. If Referral Provider will be providing Tier Two Support, then Referral Provider shall be responsible for:

- Error diagnosis, including comprehensive research of server and application logs (along with using other tools to identify potential Errors), identifying steps to reproduce Errors and determining the scope of any Errors identified;
- Error troubleshooting, including Company Product, systems and database administration reasonably sufficient to troubleshoot such Errors, and
- Communicating resolution to Customer or, in the event that Tier Three Support is reasonably necessary, making reasonable efforts to ensure that Company receives timely access to Referral Provider's and/or Customer's environment, as applicable (depending upon the nature of the Company Product deployment).

"**Tier Three Support**" means the services performed by Company to Referral Provider that include confirmation of a repeatable Error and associated Error resolution (including workarounds and bug hotfixes as necessary), with Response Times as defined herein based on Error severity as determined by Company. Company will provide Tier Three Support services solely to Authorized Contacts specified by Referral Provider.

Referral Provider Agreement

“Upgrade” means any release of the Company Product that Company makes generally commercially available to all customers, excluding Maintenance Releases, Maintenance Patches and products designated by Company as separate products or new components.

“Working Days” means all calendar days excluding Saturdays, Sundays and Company-observed holidays.

“Working Hours” means the following:

Hours of Support Availability on Working Days*	Time Zone/Geography
6:00 a.m. - 6:00 p.m.	Pacific Time in the Americas
9:00 a.m. - 9:00 p.m.	CET in Europe
9:00 a.m. - 9:00 p.m.	AEST in Asia-Pacific region

**The Referral Provider is only eligible for one of these support windows based on their geographic location.*

Referral Provider Agreement

EXHIBIT C

COMPANY SUPPLIER CODE OF CONDUCT

Introduction

As part of [Company Inc.'s] ("**Company**") ongoing effort to develop and strengthen our relationships with suppliers, partners, subcontractors and consultants (collectively, "**Providers**"), we are introducing the Company Supplier Code of Conduct ("**Supplier Code**"). The Supplier Code is based on the belief that good corporate citizenship is essential to our long-term business success and must be reflected in our relationships and actions in the marketplace, the workplace, the environment and the community.

Recognizing that there are differences in laws, customs and economic conditions that affect business practices in various parts of the world, we believe that shared values must serve as the foundation for relationships between Company and our Providers. This Supplier Code restates our requirements and emphasizes good workplace policies that comply with local labor laws and regulations. This Supplier Code applies to all Providers, whether Provider is providing services on Company's premises or at off-site locations where Provider is acting as a representative of Company.

We look forward to working with our Providers to ensure understanding of and compliance with the requirements set forth in this Supplier Code. Provider may contact the appropriate Company relationship manager with any questions or concerns regarding compliance with this Supplier Code. Please note that this Supplier Code supplements but does not supersede any rights or obligations of the parties established in any other contract or agreement Provider may have with Company.

Business Integrity

Company is committed to conducting business in an ethical, fair and honest manner. Any and all forms of illegal or inappropriate activity, including, but not limited to, corruption, misrepresentation, extortion, embezzlement or bribery, are strictly prohibited and may result in termination of any or all Provider agreements with Company and possible legal action. Provider (including its officers, directors, employees, agents and any person under its control) shall comply with, and shall require its contractors, subcontractors and any contingent workers to comply with, any and all applicable anti-corruption laws and regulations, including but not limited to, the U.S. Foreign Corrupt Practices Act ("**FCPA**").

Provider (including its officers, directors, employees, agents and any person under its control) shall not, directly or indirectly, make, promise to make, or accept any payment, offer or transfer of anything of value in connection with any business transaction relating to Company, to: (i) any foreign government official (which includes any officer, employee or consultant of a government, or government department or agency, officer or employee of a state-owned enterprise or corporation, political party or official, candidate for political office, officer or employee of a public international organization, such as the World Health Organization or World Bank, or the spouse or immediate family member of any of the persons mentioned above "government official"); (ii) an intermediary for payment to any government official; (iii) any officer, director, employee of any actual or potential customer of Company; (iv) any officer, director or employee of Company or any of its Affiliates; or (v) any other person or entity if such payment, offer or transfer is made to induce the individual to misuse his or her official position in order to benefit the Provider or Company or would violate the laws of the country in which made or the laws of the United States of America. It is the intent of the parties that no payments, offers or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance or acquiescence in extortion,

kickbacks or other unlawful or improper means of obtaining or retaining business or directing business to any person or entity.

Without limiting the above, Providers shall not offer or promise any employee or agent of Company a gift or business courtesy that compromises, appears to compromise, any such employee's or agent's ability to make objective and fair business decisions or which would create or give the appearance of creating a conflict of interest. Without limitation, Provider is prohibited from offering or giving any of the following to any employee or agent: (i) gifts of cash or its equivalent (e.g. stock, bonds, or other negotiable instruments); or (ii) any other business courtesy given in an attempt to motivate a person to do anything that is prohibited by law, regulation or Company's policies. Provider also shall not enter into a financial or any other relationship with a Company employee that creates or gives the appearance of a conflict of interest. Even the appearance of a conflict of interest can be damaging to Company and to the Provider and must be disclosed, when known, and approved by the Company.

Provider will cooperate fully in Company's efforts to enforce the terms of this provision, including but not limited to: (i) providing, upon request from Company, a certification of compliance with this provision in the form requested by Company; and (ii) providing reasonable co-operation at Provider's expense with respect to any investigation relating to this provision. In addition, records prepared for Company including records of work time and expenses, shall be accurate, truthful and complete, and shall meet applicable standards and requirements.

Proper Use of Company Assets and Information

Provider shall protect and conserve any resources made available by Company and shall use them only for purposes authorized by Company. Company resources include tangible items, such as vehicles, equipment, facilities, consumables, and computer and communication systems, as well as intangible items, such as Company good name and reputation, employee productivity, and sensitive information. Provider shall agree to respect and protect the intellectual property rights of all parties by only using information, technology and software that has been legitimately and lawfully acquired and licensed. Any Company information, technology and access to Company systems which granted to Provider by Company shall be used for Company business related purposes only and will be subject to the confidentiality, security and privacy obligations agreed to by the parties.

Accuracy of Business Records

All financial books, records and accounts must accurately reflect the underlying activity and conform both to generally accepted accounting principles and a system of internal controls. Likewise, all operational records must be accurate, timely and conform to Company requirements. Providers must create, retain and dispose of business records in full accordance with applicable legal and contractual requirements.

Fair Competition and Antitrust

Providers representing Company are expected to comply with all applicable laws and regulation regarding fair competition and antitrust (including price fixing, price discrimination, collusion bidding practices or any other unfair trade practices) and the laws and regulations governing intellectual property rights and import / export customs.

Subcontractors and Consultants

Referral Provider Agreement

Company Providers must agree to comply with this Supplier Code. Company Providers must ensure that any subcontractor or consultant used by Provider have ethical and business practices that are in accordance with this Supplier Code.

Workplace Standards and Practices

Company expects its Providers to operate their facilities and conduct employee relations in an ethical manner and to comply with all applicable laws and regulations in their respective host countries. This includes, but is not limited to, laws and regulations relating to labor and employment, compensation, work hours, days of service, rest periods, overtime, non-discrimination, freedom of association, health and safety, and the environment. Providers shall treat every employee with respect and dignity and shall not subject any employee to physical, sexual, psychological, or verbal/physical harassment or abuse.

Providers certify that to the best of their knowledge they comply with laws prohibiting human trafficking and slavery including forced, bonded, indentured, involuntary convict or compulsory labor, by any of the following means: (i) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (ii) by means of serious harm or threats of serious harm to that person or another person; (iii) by means of the abuse or threatened abuse of law or legal process; (iv) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint or (v) by means of acts involved in the recruitment, abduction, transport, harboring, transfer, sale or receipt of persons within national or across international borders, through force, coercion, fraud or deception, to place persons in situations of slavery or slavery-like conditions, forced labor or services such as domestic servitude, bonded sweatshop labor or other debt bondage. All work must be voluntary and workers should be free to leave work or terminate their employment with reasonable notice. Workers must not be required to surrender any government-issued identification, passports, or work permits as a condition of employment. Provider must create and maintain a system by which violations of Workplace Standards and Practices are reported and must prohibit and ensure that retaliatory behavior against any person who, in good faith reports such violation, is prohibited.

Provider must comply with all laws prohibiting illegal child labor, including compliance with all minimum age requirements as determined by applicable local laws and regulations and by not producing goods for Company with: (i) the sale and trafficking of children; (ii) debt bondage and serfdom; (iii) forced or compulsory labor; (iv) use, procuring, or offering of a child for illicit; or (v) work which is likely to harm the health or safety of children.

In addition, Provider certifies that materials incorporated into the products they provide to Company comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business and do not contain materials which would violate either import or export applicable laws.

Health and Safety Practices

Safety is always our first consideration. It is not optional. Providers must apply safe work practices (including regulatory and contract specific requirements) to all activities and exercise good judgment in work decisions. Providers performing work on our property or on our behalf must instill safety in every aspect of their work processes and in the attitude and behavior of all their employees. Providers must

provide appropriate controls, safe work procedures, preventative maintenance, and protective measures (such as physical guards, interlocks, and barriers) to mitigate health and safety risks in the workplace. When hazards cannot be adequately controlled by these means, Providers must provide workers appropriate personal protective equipment. Workers must have the right to refuse unsafe working conditions without fear of reprisal until management adequately addresses their concerns.

Environmental Practices

Adverse effects on the community, environment, and natural resources are to be minimized while safeguarding the health and safety of the public. Providers must comply with all applicable health, safety, and environmental laws and regulations when conducting business with Company.

Audits and Inspections

Verification of compliance by Provider and any of its subcontractors, consultants and next tier suppliers, are subject to audits by Company or a third party designated by or otherwise acceptable to Company. Company may visit (or have a third party designate or otherwise acceptable to Company visit) Provider's facilities, with or without notice, to assess compliance with this Supplier Code. Failure to comply, or failure to work with Company or a third party to correct non-complying situations, are grounds for cancellation of contracts, open Orders or termination of our business relationship. Provider shall also notify Company in writing if Provider discovers or has a reasonable basis to believe that it is not complying with any of the provisions of this Supplier Code.

Penalties for Non-Compliance

It is the responsibility of Provider to ensure that its Representatives understand and comply with this Supplier Code and to inform its Company business contact (or a member of Company management) if and when any situation develops that causes Provider to operate in violation of the code set forth in this document. Company Providers are expected to self-monitor their compliance with this Supplier Code. In addition to any other rights Company may have under its agreement with Provider, Company may request the immediate removal of any person (or employee, agent or subcontractor thereof) who behaves in a manner that is unlawful or inconsistent with this Supplier Code or any Company policy.

Legal Caveat

This Supplier Code does not confer, nor shall it be deemed to confer, any rights on the part of third-parties, including any third-party beneficiary rights. For example, no employees of any vendor shall have any rights against Company by virtue of this Supplier Code, nor shall such employees have any rights to cause Company to enforce any provisions of this Supplier Code, the decision with respect to any such actions being reserved by Company in its sole discretion.

Conclusion

Provider is responsible for complying with the requirements set forth in this Supplier Code, as may be reasonably amended from time to time by Company. Company reserves the right to cancel any outstanding order, refuse any shipments and otherwise cease to do business with Provider if Provider fails to comply with any terms of this Supplier Code or if Company reasonably believes Provider has failed to do so.