

Terms and Conditions

Introduction

These General Terms and Conditions are attached to, or entered into in connection with the execution of, an agreement or agreements (the “Agreements”) containing specific purchase terms of products or services sold by MDreferralPRO, LLC referred to herein as the “Company”.

1. Service Agreements:

1.1 Personnel:

(a) The parties hereto agree not to employ, make an offer of employment to, or enter into a consulting relationship with any employee of the other party who is in any way involved with the performance of the services to be provided hereunder while such employee is employed by the other party or for one (1) year after the termination of such employment, except upon the prior written consent of the other party. The obligations of the parties specified in this Section 1.1 shall survive the expiration or termination of the Service Agreement.

(b) The Company may subcontract any or all of the Services to third parties and may use independent consultants or other contractors to assist it in the Services. Services supplied by third party vendors shall be subject to the terms and conditions of the Service Agreement and these Terms and Conditions as if supplied by the Company.

1.2 Warranties:

(a) The Company shall use due care in providing the services hereunder in a professional manner, but recognizing that such services involve certain possibilities of errors, omissions, delays, loss or mutilation of documents or data and other occurrences which may give rise to loss or damage. The Company’s responsibility in the event of any such defects, errors or omissions shall be limited to the correction of any errors which are due to mistakes by employees of the Company or to the malfunction of the Company’s equipment.

(b) While an effort has been made to provide accurate and complete services and products, THE COMPANY MAKES NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, ABOUT THE ACCURACY, COMPLETENESS OR CORRECTNESS OF THE SERVICES OR PRODUCTS PROVIDED UNDER THIS AGREEMENT AND EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO CASE, SHALL THE COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, CAUSED AS A RESULT OF THE PRODUCTS OR SERVICES PROVIDED HEREUNDER.

(c) NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE COMPANY MAKES NO WARRANTY WITH RESPECT TO (I) SERVICES PROVIDED OR ORIGINATED BY THIRD PARTY OR OTHER VENDORS WHICH ARE PASSED THROUGH BY THE COMPANY, (II) ANY SERVICES NOT PROVIDED DIRECTLY BY THE COMPANY, OR (III) ANY EQUIPMENT WHICH IS BEING PURCHASED BY THE CUSTOMER.

1.3 Default; Termination:

(a) Either party may terminate the Service Agreement in the event of a material breach by the other party that is not cured within thirty (30) days following written notice of breach, such notice specifying the nature of the breach with reasonable explanatory information.

(b) Unless sooner terminated pursuant to Section 1.3(a) above, the Company may terminate the Service Agreement by delivery of written notice to the Customer upon the occurrence of any of the following:

(1) the Customer shall fail to pay any amounts due to the Company hereunder within thirty (30) days after written notice from the Company; or

(2) a receiver, liquidator or trustee for the Customer is appointed by a court or regulatory authority with jurisdiction over the Customer and such order stays in effect for thirty (30) days or more, the Customer is adjudicated bankrupt or insolvent or is taken over by a regulatory authority; or a petition is filed against the Customer or voluntarily by the Customer under any bankruptcy, reorganization, insolvency, dissolution or liquidation statute of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing; or the Customer ceases to do business, makes an assignment for the benefit of creditors or is unable or admits its inability to pay its debts when they mature.

(c) Unless sooner terminated pursuant to Section 1.3(a) above, the Customer may terminate the Service Agreement by delivery of written notice to the Company if a receiver, liquidator or trustee for the Company is appointed by a court, and such order stays in effect for thirty (30) days or more; the Company is adjudicated bankrupt or insolvent or a petition is filed against the Company or voluntarily by the Company under any bankruptcy, reorganization, insolvency, dissolution or liquidation statute of any jurisdiction, whether now or hereafter in effect, and is not dismissed within thirty (30) days after such filing; or the Company ceases to do business, makes an assignment for the benefit of creditors or is unable or admits its inability to pay its debts when they mature.

(d) No termination pursuant to any of the provisions of this Section 1.3 shall relieve either party of its respective obligations to the other hereunder that arose prior to the effective date of termination. In the event that the Customer shall default for failure of payment, the Company may retain all of the Customer's information in its possession until receipt of full payment and interest thereon. The provisions of this Section 1.3 shall not be in limitation of any other right or remedy available at law or in equity to the non-defaulting party.

(e) If the Service Agreement is terminated pursuant to Section 1.3(b) above or for any reason other than the material breach of the Service Agreement by the Company in the manner described in Section 1.3(a), all remaining payments for the full remaining term of the Service Agreement shall immediately become due and payable. The Customer shall indemnify the Company for all costs and expenses incurred in connection with any collection activity required to collect any payments under the Service Agreement, including legal fees and expenses.

1.4 User Identification and Passwords:

The Customer and its Authorized system Users shall not: (i) transmit or share identification and/or password codes to persons other than the Authorized Users for whom such codes were generated; (ii) permit Authorized Users to share identification and/or password codes with others; (iii) permit the identification and/or password codes from being cached in proxy servers and accessed by individuals who are not Authorized Users; (iv) permit access to the Company's systems through a single identification and/or password code being made available to multiple users on a network; or (v) attempt or permit any person without valid identification and/or password codes to attempt to access the Company's systems.

1.5 Implementation Process:

The Customer shall diligently cooperate with the Company in the implementation and training process. The Customer acknowledges that during the implementation and training process the Company expends substantial time and costs. In the event that the Customer fails to complete implementation and required training courses within three (3) months of execution of an Agreement, or the Customer elects to terminate an Agreement prior to implementation, then the Customer shall be required to pay to the Company the greater of either (i) the amount of the first year's initial and monthly fees cost or (ii) the total number of professional service hours charged to the Customer at the Company's then standard hourly rate.

2. Miscellaneous:

2.1 Agreement:

The Customer acknowledges that he or she has read and understands these terms and conditions, has the authority to, and by executing the Service Agreement, (referred to herein as the "Agreement") and these Terms and Conditions do bind the Customer to the terms hereof. The Agreement(s) and these Terms and Conditions and any related agreements executed simultaneously herewith are the complete and exclusive statement of the agreement between the parties, which supersedes all proposals oral or written and all other communications and prior agreements between the parties relating to the subject matter of the Agreement(s) and these Terms and Conditions. The terms of the Agreement(s) and these Terms and Conditions may not be amended, modified or rescinded except by a written instrument signed by both parties.

2.2 Proprietary Rights:

(a) Any ideas, concepts, know-how or techniques relating to the products and services provided hereunder or developed in connection with said products or services used by the Company during the course of the Agreement(s), including without limitation, software programs, screen layouts, graphics, report formats and user manuals shall be the exclusive property of the Company. The Customer agrees to treat such information as intangible proprietary information of the Company, intellectual property, and a trade secret and to use reasonable care in maintaining the confidentiality of such information.

(b) All proprietary rights relating to any data, text or other items delivered or transmitted to the Company by the Customer, including trademarks, trade-names, service marks and other proprietary items of the Customer shall remain the exclusive property of the Customer. The Company agrees to treat such information and items as proprietary to the Customer. The Company shall have non-exclusive rights to and use of aggregate and de-identified Customer data.

(c) No ideas, information, documentation or other material submitted by the Customer for use by the Company in connection with the Agreement(s) will violate any copyright, trademark or patent or infringe on any proprietary right. The Customer will hold the Company harmless from and will defend any action alleging the infringement of such rights that may be brought against the Company by reason of the Company's use of any such ideas, information, documentation or other material provided by the Customer. The Company shall have the right to refuse to use any idea, information, documentation of other material provided by the Customer which the Company shall, in its sole discretion, consider to violate any copyright, trademark, patent or other proprietary right.

(d) The Customer shall have no proprietary rights in or to any software, documentation, materials or other items that are part of or related to the Services to be provided by the Company hereunder, whether owned by the Company or owned by third party vendors and provided to the Customer by the Company. The Customer shall not attach, challenge or contest the Company or any third party's proprietary rights to such information, services or products or its rights to license the same, and the Customer shall not aide others in doing so.

(e) Each party acknowledges that the breach of the provisions of this Section 2.2 will cause irreparable harm and the extent of injury may be impossible to ascertain. Accordingly, each party agrees that the other party shall have, in addition to any other rights and remedies available to it, the right to immediate injunction enjoining any breach of this Section 2.2. Nothing herein shall be construed to preclude the aggrieved party from obtaining injunctive relief in the case of breach of the provisions of any other section of the Agreement(s) or these Terms and Conditions. The obligations of the parties specified in this Section 2.2 shall survive the expiration or termination of the Software Agreement.

(f) Neither party receiving information from the other shall have any obligation to keep secret any confidential or proprietary information: (i) which is, or becomes part of the public domain not due to the fault of the receiving party; (ii) which the receiving party knew prior to the disclosure of such information to it or any of its employees by the disclosing party; or (iii) which prior to the time of disclosure is revealed to the receiving party by a third party who has the right

to do so without violating any law, or any agreement of which the receiving party was aware or with reasonable care should have been aware.

(g) The Company reserves the right to develop software, services, materials and products that are competitive with the Services and to market such products to other customers so long as they do not infringe upon any patent, trademark, copyright or other proprietary right of the Customer.

2.3 Privacy and Confidentiality:

(a) Both parties acknowledge that in the course of performance of the Services the parties may have access to the other party's trade secret, confidential, proprietary, business and/or customer information, including, without limitation, "protected health information" (as such term is defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")) and the terms and conditions of the Agreement (collectively all of these types of information are known hereinafter as "Confidential Information"). The parties agree that they will not use or disclose this Confidential Information for any purpose other than as required for the performance of their obligations with regard to the Agreement(s) without the written permission of the party to whom the information belongs. Any dissemination of the Confidential Information within a party's own business entities and its affiliates and to its subcontractors shall be on a "need to know" basis for the sole purpose of performance of obligations under the Agreement(s). Upon termination of the Agreement(s), both parties shall return all such Confidential Information to the owner of such Confidential Information upon receipt of all amounts at that time owed by the party to whom the Confidential Information is to be returned pursuant hereto. Both parties shall comply in full with the privacy requirements of the HIPAA and the rules and regulations promulgated thereunder (as any of the same may be amended or superseded from time to time). Each party shall, and shall cause its employees and subcontractors to, implement and maintain customer information security measures designed to comply with the requirements of all applicable laws (including, without limitation, the satisfaction of the objectives of the HIPAA, as amended). The parties agree that from time to time the other party may monitor the party's or any employee's or subcontractor's compliance with such requirements.

(b) The Company agrees to cooperate and assist the Customer in connection with any examination by regulatory authorities or any internal or external audit of the Customer; provided, however, that the Customer shall reimburse the Company for all out of pocket expenses incurred and will pay the Company its standard hourly rates for time spent in any such effort.

2.4 Limitation of Liability; Indemnification:

(a) The parties agree that the Company shall not be liable for any loss or liability suffered by the Customer in connection with the services provided by the Company hereunder unless caused by the Company's gross negligence. The Customer agrees that the Company shall be excused from the performance and shall not be liable for any delay in delivery or non-delivery due to contingencies beyond the control of the Company, including, but not limited to, war, riot, sabotage, judicial or governmental action or inaction, strikes or other labor dispute, accident, fire, explosions, flood, earthquakes, acts of terrorism, acts of extortion, or other natural disasters or any act of God or other causes or events beyond its control.

(b) The Customer further agrees that in no event will the Company be liable for indirect, special, collateral, incidental or consequential damages. The Customer further agrees that in no event will the total aggregate liability of the Company for any damages arising under this contract and services performed hereunder exceed the total amount paid by the Customer to the Company during the preceding twelve (12) month period (or, should the contract have been in effect less than twelve (12) months, for the time from the effectiveness of the contract).

(c) The Company shall not be liable for any claim made by any party other than the Company or the Customer against the Customer for damages incurred by such person, directly or indirectly, as a result of any error or omission by the Company or the Customer related directly or indirectly to the performance of the Services. The Company shall not be liable to the Customer or any other person for noncompliance by the Customer or any other person with any applicable law or regulation regarding the Services performed by the Company pursuant hereto.

(d) It is the Customer's responsibility to enter into appropriate agreements with its customers and other parties and to obtain appropriate indemnities and limitations on the Customer's liabilities and to carry appropriate insurance to cover its liabilities to its customers. The Customer shall, therefore, indemnify and hold the Company harmless from and against any and all claims, causes of action, liabilities or losses (including reasonable attorneys' fees) by or on behalf of any party other than the Customer or the Company arising out of, or in any way related to, any goods or services provided by or through the Customer to any person other than the Company. The Customer's obligations under this Section 2.4(d) shall survive the termination or expiration of the Service Agreement.

(e) The Customer acknowledges that the Customer retains the risk of security failures as a result of flaws in its systems. The Customer hereby specifically releases the Company from any liability for failure of the measures implemented to prevent any loss, damage, destruction or theft of data or to prevent any breach of security, and the Customer agrees to indemnify and hold harmless the Company for all damages, liabilities, costs and expenses (including legal fees and expenses), relating to the failure of the Customer's systems to prevent loss, damage, destruction or theft of data or to prevent any breach of security. The Customer further releases the Company from any liability for any loss, damage, destruction or theft of data or for any breach of security resulting from failure of third party equipment or software to operate as anticipated, including, but not limited to, telephone or other telecommunications lines or other equipment utilized by Customer or any other systems, whether or not such equipment or systems are within the Customer's control.

2.5 Third Party Vendors:

(a) The Customer acknowledges that some products and services provided under the Agreement(s) may be provided by third parties which are not a party to the Agreement(s), and some of the services provided by the Company may be provided utilizing software or systems owned by or licensed from third party vendors. The Customer agrees to execute appropriate software license agreements with such third party vendors as required by such third party vendors.

(b) The Customer agrees to treat any information, services or products provided by such third party vendors as intangible, proprietary information, intellectual property, and trade secrets, whether or not any portion thereof is or may be validly copyrighted or patented. The Customer's interests in such information, services or products is only the non-exclusive right to use thereof as herein provided, and the Customer shall have no interest therein or rights thereto other than the non-exclusive right to use as herein provided.

(c) The Customer agrees that the Company, at its sole discretion, may change any third party vendor and provide a substitute for the third party vendor's respective products, software, or services.

2.6 Default in Payment:

The Customer shall pay all amounts due under this Agreement no later than ten (10) days after receipt of each invoice and the Customer shall pay a service fee equal to one and a half percent (1.5%) per month, or if lower, the highest rate legally permitted, for any late payments plus all associated collection and legal expenses if applicable. In the event that the Customer shall default for failure of payment, the Company shall have all rights and remedies available at law or in equity to the Company.

2.7 Return of Materials:

Within thirty (30) days after the effective date of any termination of the Agreement(s), the Customer shall return all materials relating to the Services and shall deliver to the Company a certificate executed by a duly authorized officer that the Customer and the Customer's agents and employees and contractors have returned to the Company all such materials and have not retained copies of any software or documentation which is related to the Services.

2.8 Arbitration:

The parties hereto shall endeavor in good faith to resolve all claims, controversies and disputes arising from, or in connection with, the Agreement through informal discussions and negotiations either between themselves or between respective legal advisors appointed by each party. If the parties fail to resolve a claim, controversy or dispute among themselves, they will submit any unresolved claim, controversy or dispute to binding arbitration pursuant to the provisions of the Federal Arbitration Act. All disputes, controversies or claims arising out of the Agreement shall be settled by arbitration in Mobile, Alabama, before a single arbitrator pursuant to the Rules of the American Arbitration Association (the "Rules"). Arbitration may be commenced by either party giving written notice to the other party that the dispute has been referred to arbitration under this Section. The arbitration shall be selected by the joint agreement of the parties, but if they do not agree within twenty (20) days after the date of the notice referred to above, the selection shall be made pursuant to the Rules from the panels of arbitrators maintained by such Association. Any award rendered by the arbitrator shall be conclusive and binding upon the parties; provided, however, that any such award shall be accompanied by a written opinion of the arbitrator giving the reasons for the award. This provision for arbitration shall be specifically enforceable by the parties, and the decision of the arbitrator in accordance

herewith shall be final and binding, and there shall be no right of appeal therefrom. Each party shall pay its own expenses of arbitration, and the expenses of the arbitrator shall be equally shared; provided, however, that if in the opinion of the arbitrator any claim under the Agreement or any defense or objection thereto was unreasonable, the arbitrator may assess, as part of his or her award, all or any part of the arbitration expenses of the other party (including reasonable attorney's fees) and of the arbitrator against the party raising such unreasonable claim, defense or objection. No suit at law or in equity based upon claims, disputes or controversies arising under the Agreement shall be instituted by any party if such claims, disputes or controversies are subject to arbitration, except an action to compel arbitration pursuant to the Agreement or an action to enforce the award of the arbitrators.

2.9 Confidential:

The Agreement(s) and the information herein are confidential and provided to Customer for internal use only. The Agreement(s) and information contained herein may not be copied, distributed, or viewed by any third party without the written permission of the Company.

2.10 Third Party Warranties and Maintenance Contracts:

Except as provided herein, the Company is obligated to provide no maintenance and provides no warranties for any computer hardware, equipment or computer software or any other products manufactured, developed or owned by parties other than the Company. The Customer agrees that it will look to the manufacturers, developers or owners of such hardware, equipment and software for any warranty claims relating thereto.

2.11 Taxes:

Amounts payable pursuant to the Agreement(s) shall be free and clear of any present or future income or other taxes, including federal, state, county, local or other taxes that may be levied based upon payments made pursuant to the Agreement(s), withholding taxes, deductions, fees, or other levies. If the Customer is required by law to make any deductions or withholdings from payments to Company, the Customer shall pay such additional amounts to Company as may be necessary to ensure that the actual amount received by Company after deduction or withholdings (and after payment of any additional taxes due as a consequence of such additional amount) shall equal the amount that would have been payable to Company if such deductions or withholdings were not required. The Customer shall indemnify and hold Company harmless from and against any claims, liabilities, or expenses (including any interest or penalties) arising out of the Customer's failure to withhold or timely remit such taxes to the proper governmental authority.

2.12 Notices:

All notices, demands, and other communications to be given hereunder shall be in writing and deemed properly given when delivered by express mail service such as Federal Express or by registered or certified mail (return receipt requested) or by hand to the parties at their respective addresses shown on the Agreement(s) or to such other address as shall have been specified in writing by the party to whom such notice is to be given. Notice given as above shall be deemed

to be delivered when deposited in the mail or with the express mail service; provided, however, that notices not given as above shall be deemed to have been delivered when actually received by the party to whom addressed.

2.13 Assignment; Amendment:

(a) The Agreement(s) and these Terms and Conditions are not assignable by Customer without the prior written consent of the Company. Any attempt by Customer to assign any of its rights, duties or obligations under the Agreement(s) or these Terms and Conditions without such consent is void. The Company may assign its rights and obligations under the Agreement(s) and these Terms and Conditions, without the consent of the Customer, to an affiliate or upon the sale by the Company of all or substantially all of its assets, and the Company may subcontract the performance of its obligations hereunder as otherwise provided herein.

(b) The Agreement(s) and these Terms and Conditions can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of the Customer and of the Company, and variance from or addition to the Terms and Conditions or the Agreement(s) in any order or other written notification from the Customer will be of no effect.

2.14 Severability:

If any provision or provisions of the Agreement(s) shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the other provisions shall not, in any way, be affected or impaired thereby.

2.15 Waiver:

No waiver of any contract provision shall be deemed a waiver of future enforcement of that or any other provision.

2.16 Force Majeure:

Neither party shall be responsible for the failure to fulfill its obligations under the Agreement(s) or these Terms and Conditions due to acts of God, acts of nature, acts of terrorism, strikes, walkouts, problems with communications or equipment, or other causes beyond a party's control.

2.17 Governing Law:

The Agreement(s) and these Terms and Conditions and any dispute arising hereunder shall be governed by the laws of the State of Alabama. Customer hereby consents to the jurisdiction of any Alabama state courts in Mobile or Baldwin Counties or in federal court in the Southern District of Alabama.