



Dated:

Referral Agreement

AVANSER Pty Ltd A.C.N. 107 330 049
("Company")

("Referrer")

Referral Agreement

Referrer's Details

Name:

Address:

Contact:

Email:

SUBJECT TO THE TERMS AND CONDITIONS HEREIN, THE COMPANY AGREES TO ENGAGE THE REFERRER as follows:

1. Parties

- 1.1 This Referral Agreement (**Agreement**) is made by and between **AVANSER Pty Ltd** (ACN 107 330 049), a company registered under the laws of New South Wales, whose registered office is at Level 2, 152 Elizabeth Street, Sydney, NSW 2000, Australia (**Company**) and the party whose details are listed in the table above (**Referrer**).

2. Service Term

- 2.1 The service term of the Referrer shall commence on the date of execution of this Agreement and shall end on termination of this Agreement in accordance with Clause 9.
- 2.2 The parties agree that any services performed by the Referrer prior to the date of execution of this Agreement shall also be subject to the provisions of this Agreement.

3. Services

- 3.1 The services to be performed by the Referrer are set out in Schedule 1 of this Agreement.
- 3.2 In carrying out its performance of the services under this Agreement, the Referrer acknowledges, agrees and warrants that:
- (a) it has the necessary skills, experience and resources to successfully perform the services;
 - (b) it shall preserve the business reputation of the Company; and
 - (c) it shall not, nor does it have any power or authority to, make or conclude any contracts or receive any monies in the name, or for or on behalf, of the Company.

4. Payment of Services

- 4.1 The Company shall pay the Referrer a commission (**Commission**) on the terms and at the rate specified in Schedule 1 as consideration for the Referrer's performance of the services under this Agreement.
- 4.2 The Company reserves the right to review the Commission by giving one (1) month's written notice to the Referrer.
- 4.3 Notwithstanding Clause 4.2, the Company shall only be entitled to retrospectively reduce the Referrer's

current rate of Commission by way of prior written approval of the Referrer.

5. Confidential Information

- 5.1 In performing the Services, the Referrer acknowledges that it may have access to, or disclosure may be made in respect of Confidential Information of the Company.
- 5.2 The Referrer expressly agrees that:
- (a) it must keep Confidential Information confidential;
 - (b) may use Confidential Information only in relation to this Agreement;
 - (c) may only disclose Confidential Information to its advisors or consultants to the extent they have a need to know;
 - (d) must not copy the Confidential Information or any part of it other than as strictly necessary for the purposes of this Agreement;
 - (e) must not remove, obscure, or alter any notice of patent, copyright, trademark, trade secret, or other proprietary right from any document, software, or other item containing any Confidential Information;
 - (f) must implement security practices against any unauthorised copying, use, disclosure (whether such disclosure is in writing, oral, or any other form), access, damage, or destruction of the Confidential Information;
 - (g) must immediately notify the Company if the Referrer suspects or becomes aware of any unauthorised copying, use or disclosure in any form; and
 - (h) must comply with all reasonable directions of the Company in relation to the Confidential Information.
- 5.3 Immediately upon the earlier of:
- (a) the Company's written request; or
 - (b) the termination or expiration of this Agreement for any reason,
- without limiting any other obligations of the Referrer under this Agreement, the Referrer must, at the written direction of the Company, return or destroy

all Confidential Information of the Company in its possession.

6. Relationship of Parties

- 6.1 The Referrer is not the agent of the Company. The Referrer is not in any way a partner, employee or, for the purposes of the *Corporations Act 2001* (Cth), nor an authorised representative of the Company.
- 6.2 The Referrer must not do or say anything that will or is likely to damage or diminish the Company's business reputation or brand names. This Clause shall survive expiry or termination of this Agreement.
- 6.3 The Company is interested only in the results to be achieved through the performance of the Services by the Referrer and the conduct and control of such performance shall lie solely with the Referrer.
- 6.4 Accordingly, the Referrer expressly acknowledges and agrees that the Referrer has no authority to, and will not exercise or hold itself out as an agent or representative of the Company, or as having any authority to enter into or conclude any contract in the name, or for or on behalf, of the Company.

7. Dispute Resolution

- 7.1 Disputes or differences arising between the Referrer and the Company in relation to this Agreement must preferably be settled quickly and by negotiation.
- 7.2 The parties hereby agree to determine any unresolved disputes by way of amicable agreement between the Referrer and an employee of a senior management level of Company.
- 7.3 If the parties cannot resolve such dispute within thirty (30) days of when the dispute is first raised by either or both the parties, the parties agree that the dispute should be referred to an external consultant or advisor who specialises in the resolution of referrer/client disputes. Any decision made by the external consultant or advisor shall be final and binding on the parties.
- 7.4 All costs, charges and expenses incurred as a result of the parties' use of the external consultant or advisor shall be borne by the parties equally.
- 7.5 The parties agree to adhere to the procedures set out in this Clause before enforcing any other rights permitted by law in the resolution of any disputes under this Agreement.

8. Notices

- 8.1 A party notifying or giving notice under this Agreement must give notice:
 - (a) in writing;
 - (b) with respect to the Company, to the postal address specified in Clause 1 or to the fax number 1300 859 480 or to the email address nidal@avanser.com.au, or any other address as

notified in writing by the Company to the Referrer;

- (c) with respect to the Referrer, to the postal address, fax number or email address specified in the table on the first page of this Agreement, or any other address as notified in writing by the Referrer to the Company.

- 8.2 A notice given in accordance with this Clause is received:

- (a) If left at the recipient's address, on the date of delivery;
- (b) if sent by prepaid post, four (4) days after the date of posting;
- (c) if sent by fax, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice; and
- (d) if sent by email, when the sender does not receive any failed delivery email notification from either its, or the recipient's, mail server within five (5) days after the date of the email.

9. Termination

- 9.1 This Agreement shall remain in force until termination by either party by way of one (1) month's written notice to the other.
- 9.2 The Company may terminate this Agreement at any time without notice if:
 - (a) the Referrer breaches any of its obligations under this Agreement;
 - (b) the Referrer ceases to carry on business in its usual manner; or
 - (c) the Referrer is insolvent under the laws of any jurisdiction.
- 9.3 All rights and obligations arising under Clauses 5 and 6 shall survive the termination of this Agreement.
- 9.4 The Referrer shall not be entitled to any Commission on and from the date of termination of this Agreement.

10. Assignment

- 10.1 The Referrer must not in any way assign, dispose or in any way otherwise relinquish possession or control of all or any part of its obligations under this Agreement without the prior written approval of the Company.

11. Entire Agreement

- 11.1 This Agreement shall represent the entire agreement between the parties and supersedes all previous agreements, terms, conditions, representations or claims which may have been made or agreed upon between the parties.
- 11.2 This Agreement may not be amended unless such amendments are made in writing and signed by both parties.

12. Governing Law

12.1 This Agreement shall be governed exclusively by the laws of New South Wales, and the parties hereby submit to the exclusive jurisdiction of the courts of that state.

13. Waiver and Severability of Terms

- 13.1 The failure of the Company to exercise or enforce any right or provision under this Agreement shall not constitute a waiver of such right or provision.
- 13.2 If any part of this Agreement is or becomes unenforceable, it may be severed and will not invalidate the remainder of this Agreement.

Executed on this _____ day of _____, year 20__

Executed for and on behalf of the Company pursuant to section 126(1) of the *Corporations Act 2001* (Cth):

Executed by the Referrer:

Signature of Company Representative

Name: Nidal Fouani

Position: National Sales Manager

Signature of Referrer

Name:

Position:

SCHEDULE 1

Services to be performed by the Referrer

1. Identify suitable and prospective referrals.
2. The Referrer must pre-qualify each referral by introducing and promoting the Company's products and services in order to determine the level of interest of the prospective referral.
3. The Referrer is not entitled to reduce any of the Company's published package rates in relation to the Company's products and services without the prior written approval of the Company's Director of Sales.
4. Every referral must be substantiated in writing by email as supporting evidence that the Referrer has contacted the prospective referral and has determined the level of interest of the prospective referral in relation to the Company's products and services.

Commission for Services

1. Subject to the terms of this Agreement and upon the relevant prospective referral (**Client**) purchasing the Company's products and services as a result of the successful referral generated by the Referrer, the Company agrees to pay the Referrer the Commission.
2. The rate of Commission is as follows:
 - (a) Ongoing 5% monthly rate for the duration of the written service agreement between the Company and the Client.
3. The parties agree that:
 - (b) the rate of Commission in paragraph 2 above shall be based on the SERVICES LISTED IN AVANSER'S STANDARD RATE CARD that are charged IN FULL to the Client by the Company in one or more invoices issued to the Client, excluding always any set-up fees and GST that are payable by the Client; and
 - (c) the Commission shall **only** be paid to the Referrer:
 - i. for written service agreements between the Company and the Client that are executed by the Company's Director of Sales on behalf of the Company; and
 - ii. In relation to invoices which have been paid in full to the Company by the relevant Client.
 - (d) The Referrer is not entitled to any commission or payments for any further or additional business opportunities generated from the said referral.

Commissions are paid into the following nominated bank account:

Account Name:

Banking Institution:

BSB:

Account Number: