

Itoma Ltd.  
6 Comet Road  
Hatfield  
Hertfordshire  
AL100SX  
UK

## **REFERRER AGREEMENT**

THIS AGREEMENT (the “**Agreement**”) is made as of the 18th of October of 2021 but shall take effect from the Effective Date.

### **Parties:**

1. Charter HCP (“CHCP”), a company registered in England under company number 10356432 whose registered office is at Belfry House, Bell Lane, Hertford SG14 1BP (the “**Company**”).
2. Itoma Ltd. (“Itoma Lux”) a company registered in England under company certificate under code number: 10782723, whose registered office is at 6 Comet Road, Hatfield, AL10 0SX, UK (the “**Referrer**”).

### **Background:**

- A. The Company is a member of an international group of companies which provide various services (“**Services**”).
- B. The Company has agreed to pay referral fees to the Referrer for introducing new clients to it on the terms set out in this Agreement.

### **Agreed Terms:**

#### **1. Interpretation**

The definitions and rules of interpretation in this Clause 1 apply in this Agreement.

**Affiliate:** in relation to a company, any of its Subsidiaries, any company of which the Company is a Subsidiary (its Holding Company) and any other Subsidiaries of any such Holding Company for the time being.

**Commission:** has the meaning given to it in Clause 5 of this Agreement.

**Confidential Information:** (i) information (whether or not recorded in documentary form, or

stored on any magnetic or optical disk or memory) which is not in the public domain relating to the business, products, affairs and finances of any Group Company for the time being confidential to the Group Company and trade secrets including, without limitation, technical data and know-how relating to the business of any Group Company or any of its business contacts, and (ii) the terms of this Agreement, and the substance of all negotiations in connection with it.

**Effective Date:** the 18<sup>th</sup> October 2021

**Group Company:** The Company or its Affiliate.

**Holding Company and Subsidiary:** a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), by way of security or in connection with the taking of security, or (b) its nominee.

**Introduction:** the provision to the Company of the contact details of a Proposed Client or, if a Proposed Client is a legal entity, of an employee at such Proposed Client who is of sufficient seniority to authorise or recommend the purchase of the Services from any Group (and "introduce" and variants thereof shall be interpreted accordingly).

**Introduction Date:** in relation to each Proposed Client, the date during the Term on which the Referrer first introduces such Proposed Client to the Company.

**Introduction Period:** in relation to each Proposed Client, the 6 (six) months from the Introduction Date.

**Net Proceeds:** the payments actually received by any Group Company for the Services under a Relevant Contract less any value added tax or other sales tax on them, any costs and expenses incurred by the Group Company in providing the Services and any discounts or rebates granted by the Group Company.

**Proposed Client:** a natural or legal person who is eligible for, and potentially interested in, purchasing any Services provided by any Group Company and to whom the Group Company has not at any time previously provided any Services and with whom the Group Company has not been in bona fide negotiations to provide the Services in the six (6) months before the Introduction Date.

**Relevant Contract:** a contract for the supply of Services entered into during the Introduction Period between the Group Company and the Proposed Client who was introduced by the Referrer.

**Services:** has the meaning given to it in Recital A to this Agreement.

**Term:** has the meaning given to it in Clause 6.1 of this Agreement.

## 2. Appointment of Referrer

1) The Company appoints the Referrer on a non-exclusive basis to introduce new clients

to the Group Companies for the provision of Services in which the Group Companies are usually engaged.

2) In undertaking such appointment and its responsibilities under this Agreement, the Referrer:

- (a) is an independent contractor and not an employee of any Group Company;
- (b) has no authority to act as agent or representative of any Group Company except as expressly stated in this Agreement;
- (c) has no express or implied authority to incur any liability or obligation that would be binding on any Group Company (including, but not limited to, the acceptance of its Proposed Clients by any Group Company, which will be at the sole discretion of any Group Company); and
- (d) may not use any Group Company's name, trademarks or logos on its business cards, letterheads, emails, website or other marketing or advertising material, except as may be expressly authorised in advance in writing by a director of the Group Company.

### **3. Referrer's Obligations**

The Referrer shall identify Proposed Clients for the Group Companies and make Introductions of Proposed Clients directly to the Company. The Referrer declares and guarantees that he has taken the time to understand the Proposed Client's needs and expectations before introducing them to the Company.

1. Notwithstanding anything to the contrary in this Agreement, if a Proposed Client is introduced by the Referrer to the Company and the Proposed Client then introduces the Company to a third party which purchases Services from any Group Company, the Referrer shall not, by virtue of such initial Introduction, be deemed to have introduced the third party to the Group Company.
2. The Referrer declares that he shall first identify and ensure that each Proposed Client is in compliance with all relevant anti-money laundering requirements in the United Kingdom. The Referrer shall refrain from introducing Proposed Clients which he reasonably considers suspicious.
3. The Referrer must, if not prevented by obligations of confidentiality, (both when introducing Proposed Clients and at any time afterwards that the Proposed Client is a client of the Group Company and new information comes into the Referrer's possession) provide the Company with all relevant documents and information in its possession which may affect the acceptability of each Proposed Client to the Group Company, including (but not limited to) passport copies, certificates of incorporation, financial statements and information regarding the Proposed Client's reputation, source of funds, source of wealth and the Proposed Client's beneficial owner (if applicable).
4. The Referrer shall, upon the Company's request, apply reasonable endeavours to arrange meetings between a Proposed Client and a Group Company and to provide an opportunity for the Group Company to give a presentation to the Proposed Client regarding its Services.

#### **4. Company's Obligations**

1. The Company will be under no obligation to accept as clients any Proposed Clients introduced by the Referrer or to accept any particular business from them, or to provide any reason to the Referrer for its decision.
2. Where a Group Company enters into a Relevant Contract with a Proposed Client and provides Services to that Proposed Client for which it receives payment, the Company will pay a referral commission to the Referrer in accordance with Clause 5 below.

#### **5. Referral Fees**

1. The Referrer shall be entitled to a Commission only in the event that:
  - i. Proposed Client introduced by the Referrer to the Company enters into a Relevant Contract;
  - ii. the Group Company receives payment from such Proposed Client for the provided Services under the Relevant Contract; and
  - iii. the Company receives an invoice from the Referrer for the Commission payable as per the Company's statement submitted pursuant to Clause 3.
2. The amount of commission payable to the Referrer for the performance of his services under this Agreement shall be 40% (forty per cent) of the Net Proceeds received by the Group Company under each Relevant Contract ("**Commission**"). The Commission shall be payable to the Referrer in the currency in which it is received by the Group Company.
3. The Company shall, within a reasonable period of time from the date on which the Company or its Affiliate received payment for Services under a Relevant Contract, send to the Referrer a written statement setting out, in respect of each Relevant Contract:
  - i. the payments for Services received and details of any sums due which have not been received;
  - ii. the Commission payable to the Referrer; andhow the Commission has been calculated, including details of all deductions made in determining the Net Proceeds.
4. The amount of the Commission is inclusive of all applicable taxes which may be payable, including without limitation VAT. Where VAT is chargeable by the Referrer, it must provide the Company with a proper VAT invoice before payment is made.
5. The Referrer acknowledges that the amounts a Group Company may charge for its Services to any Proposed Client may be varied from time to time at the Group Company's discretion and may be subject to individual negotiation. The Company makes no representation that its standard level of charges or any level of charges will be applied

to or recovered in practice from any Proposed Client.

6. The Referrer is only entitled to the remunerations specified in this Clause 5.

## **6. Termination**

1. Subject to Clause 1, this Agreement shall commence on the Effective Date and remain in full force and effect until terminated by either party in accordance with this Agreement (“**Term**”). Either party may terminate the Agreement by giving not less than one (1) month's written notice to the other party.
2. Notwithstanding anything to the contrary in this Agreement, the Company may terminate this Agreement immediately without notice if:
  - (a) the Referrer becomes bankrupt or goes into liquidation (other than for the purpose of solvent reconstruction or amalgamation), administration, administrative receivership or receivership or enters into a voluntary arrangement with its creditors;
  - (b) the Referrer is in breach of this Agreement and (in the case of a breach capable of remedy) fails to remedy that breach within 14 days of receipt of notice from the Company specifying the breach and requiring its remedy; or
  - (c) the Company reasonably considers that its good name and reputation will be prejudiced by continuing association with the Referrer or that the Company is or will become in breach of any applicable law by reason of the terms of this Agreement.
  - (d) The Referrer fails to successfully introduce any Proposed Clients to the Company for a continuous period of 18 months from the date of this Agreement.
3. The Referrer may terminate this Agreement by notice to the Company if:
  - i. the Company goes into liquidation (other than for the purpose of solvent reconstruction or amalgamation), administration, administrative receivership or receivership or enters into a voluntary arrangement with its creditors; or
  - ii. the Company is in breach of this Agreement and (in the case of a breach capable of remedy) fails to remedy that breach within 14 days of receipt of notice from the Referrer specifying the breach and requiring its remedy.
4. Upon the termination of this Agreement:
  - (a) if the termination is pursuant to Clauses 1 or 3, the Commission will continue to be payable for any Proposed Client introduced to the Company by the Referrer prior to the date of termination in respect of revenue under a Relevant Contract received by a Group Company during the Term and/or after the date of termination of this Agreement; or

if the termination is pursuant to Clause 1 or otherwise, no Commission will be

payable in respect of any revenue received by a Group Company from any Proposed Client after the date of termination.

## **7. Confidentiality**

1. The Referrer undertakes, both during the Term of this Agreement and at any time after its termination (howsoever arising), to keep confidential and not to misuse any Confidential Information of any Group Company and/or relating to any Proposed Client, which the Referrer may receive in the course of this Agreement, except:
  - i. with the prior written permission of the Group Company; or
  - ii. to the extent such information may become public knowledge (other than by the Referrer's breach of this undertaking);
  - iii. if the Referrer is required by applicable law to disclose it.
2. Upon the termination of this Agreement (for any reason) the Referrer must return to the Company all copies of such Confidential Information held by it in written form and irretrievably delete any such copies held in electronic form.

## **8. Tax Status and Indemnity**

1. The Referrer is an independent contractor and will accordingly be fully responsible for all income and other tax liabilities in respect of the Commission payable to it.
2. The Referrer undertakes to indemnify the Company against any liability, assessment or claim for any taxation whatsoever arising from or made in connection with the Commission payable to it, where such recovery is not prohibited by law. The Company may satisfy such indemnity (in whole or in part) by way of deduction from any payment of any Commission.

## **9. Anti-Bribery Compliance**

1. The Referrer shall:
  - i. comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 (“**Relevant Requirements**”);
  - ii. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the UK Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
  - iii. have and shall maintain in place throughout the Term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the UK Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;

- iv. immediately notify the Company if a foreign public official becomes an employee of the Referrer (and the Referrer warrants that it has no foreign public officials as employees at the date of this Agreement);
  - v. ensure that all persons associated with the Referrer or other persons who are performing services in connection with this Agreement comply with this Clause 9.
- 2. Breach of this Clause 9 shall be deemed a material breach of this Agreement.
- 3. For the purpose of this Clause 9, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the UK Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and (6) of that Act and section 8 of that Act respectively.

## **10. Representations and Guarantees**

Each Party represents and guarantees that:

- (a) the signatory acting on its behalf has full power to sign this Agreement;
- (b) it has full capacity to enter into this Agreement and execute the provisions therein;
- (c) it conducts its activities in compliance with any law, regulations and other dispositions in force which are applicable to it and/or to which it is bound;
- (d) the execution of this Agreement does not infringe any law, regulation and other disposition in force which are applicable to it and/or to which it is bound; and
- (e) the obligations arising out of this Agreement are legal, valid and binding upon it.

## **11. General**

- 1. This Agreement (together with any documents referred to in this Agreement, insofar as each of the parties is party to such documents) constitutes the entire agreement between the parties relating to its subject matter, and supersedes any previous agreement between the parties relating to that matter.
- 2. Each party acknowledges that it has not entered into this Agreement on the basis of, and does not rely on, any representation, warranty or other provision that is not expressly included in this Agreement, and it irrevocably and unconditionally waives any right it may have to claim damages and/or to rescind this Agreement on the basis of any misrepresentation that is not expressly included in this Agreement or breach of warranty that is not expressly included in this Agreement, unless such misrepresentation or breach of warranty was fraudulent. The parties agree that this exclusion is reasonable as it is mutual, and it is their intention that all representations and warranties in respect of the subject matter of this Agreement should be expressly set out in this Agreement.



3. This Agreement may only be varied in writing, under the signature of both parties or their authorised representatives.
4. This Agreement is binding upon and will continue in force for the benefit of the successors of the parties.
5. Any notice required to be given under this Agreement or communication in respect of this Agreement must be in writing, and must be served by sending it by pre-paid first class post (within the United Kingdom) or by fax or by delivering it by hand or by international courier service to the registered office for the time being of the addressee (if it is a company) or (if otherwise) to his address as stated in this Agreement, or to such other address as it may from time to time notify for the purpose. If posted within the United Kingdom, the notice or communication will be deemed to have been served 3 days after posting. If faxed it will be deemed to have been served upon transmission, unless transmitted after 5pm (in the place of receipt) in which case it will be deemed to have been served on the next business day in the country of receipt. If delivered by hand, it will be deemed to have been served upon delivery. To prove service by post, it is sufficient to show that the envelope was properly stamped, addressed and placed in the post. To prove service by fax, it is sufficient to produce a transmission report or journal showing the addressee's current fax number and indicating correct transmission of the right number of pages on a specified date at a specified time. To prove service by hand, it is sufficient to show personal delivery to the correct address.
6. No delay or omission of any party in exercising any right or remedy in whole or in part is to be construed as a waiver of it, or to operate so as to limit or preclude any further or other exercise of it.
7. No announcement of any kind may be made in respect of the subject matter of this Agreement unless specifically agreed by the parties both as to the timing and the contents of the announcement.
8. Each party is responsible for its own costs of and incidental to this Agreement and its subject matter.
9. This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes and claims) are governed by and construed in accordance with the law of England and Wales. The Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes and claims).
10. This Agreement may be executed in any number of counterparts, each of which is an original, but all of which together constitute one and the same instrument.

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**EXECUTED** under hand in two originals on the date at the head of this Agreement.

SIGNED by: ..... }

NAME: Adam Michaelson }

TITLE: Director }  
for and on behalf of  
the Company

  
SIGNED by: .....

NAME: Ireneusz (Eric) Tomaszewski

TITLE: Managing Director  
for and on behalf of  
the Referrer