



PandaDoc

Marketing Agreement

Prepared for:

[Client.FirstName] [Client.LastName]
[Client.Company]

Created by:

[Sender.FirstName] [Sender.LastName]
[Sender.Company]

THIS MARKETING AGREEMENT (this "Agreement" or this "Marketing Agreement") is entered into on [Effective Date] ("Effective Date"), by and between [Sender.Company] , a company organized and existing in the State of [Sender.Location] , with an address [Sender.Address] ("Company" or "We") and [Client.Company] , a company organized and existing in the State of [Client.Location] , with an address at [Client.Address] ("Remarketer" or "You").

In consideration of the mutual covenants set forth herein, and intending to be legally bound thereby, the parties agree as follows:

1. Definitions

The following definitions govern the meanings of the capitalized terms used in this Marketing Agreement:

"Certificate" shall mean a document created by Company and issued to Remarketer that indicates that Company is a Remarketer for Company Products.

"Customer" shall mean (i) an entity with its headquarters in the Territory (defined below), and persons with their residence in the Territory and (ii) with Company's prior written permission, an entity that is a subsidiary of a Customer, where the sales decision regarding the Product is made for the entity by the Customer.

"Documentation" shall mean the user manual, if any, and specifications, if any, for the Product.

"Order" or "Orders" shall mean a Company-created contract for the purchase of Product(s) by Customer(s).

"Personal Data" shall mean information relating to persons.

"Products" are those listed on Exhibit 1 hereto.

"Purchase" shall mean the purchase of Product for resale in the Territory.

"Quarter" shall mean each three-month calendar period commencing with the Effective Date of this Agreement except the first Quarter will be from the Effective Date to the date that is the last day of the first two calendar months after the Effective Date.

"Quarterly" shall refer to a "Quarter".

"Remarketer" a business entity that acquires Products or Services for the purpose of marketing.

"Sale" shall mean when each of these occurs: Customer executes an Order, Company receives the Order from Remarketer and Company accepts the Order.

“Service” shall be the performance of a task, provision of advice and counsel, assistance, support, or access to a resource (such as an information database) that Company may approve you to market.

“Term” shall mean the term of this Agreement.

“Territory” shall mean the Territory in Exhibit 1.

2. License

Subject to the terms and conditions of this Agreement, Company grants to Remarketer, and Remarketer accepts, a non-exclusive, royalty-free, limited and non-transferable license, (“License”), pursuant hereto, to (i) advertise, promote, market, demonstrate and offer to sell and sell the Products and their Documentation to Customers in the Territory, during the term hereof, only for Remarketer's performance of this Agreement.

3. License Restrictions

Notwithstanding anything to the contrary in this Agreement, the License is subject to the following conditions:

Remarketer shall not reproduce, modify or reverse engineer the Products, Documentation or any portion thereof without Company's prior written consent, and Remarketer shall not sublicense the License.

4. Remarketer Duties

At its cost, unless otherwise expressly stated, Remarketer shall, as follows:

1. invest the necessary resources and engage its best efforts to advertise, market, promote, demonstrate, offer to sell and sell the Products to Customers in the Territory, via Remarketer's personal business contacts, pursuant to Product marketing plans, developed by Remarketer, using only marketing, advertising and promotional material provided by or previously approved in writing, Company and contracts, including Orders, and documents, provided by or previously approved in writing by Company.
2. promptly notify Company of any unauthorized use of the Products of which it becomes aware and assist Company in enforcement of its rights in the Products.
3. protect Company's confidential and proprietary information and intellectual property (including, but not limited to, its trade secrets, copyrights, trade names, service marks and trademarks) with the same level of protection it employs for its own confidential and proprietary information and intellectual property, and

notify Company if it becomes aware of any unauthorized use of any of the foregoing.

4. efficiently, promptly and courteously, with the highest standards of professionalism advertise, promote, demonstrate, market, offer to sell and sell the Products.
5. if it receives Orders from Customer, promptly transmit all Orders executed by Customer and full payment from Customer pursuant to the Orders to Company as Company directs.
6. communicate to and receive communications from, and send material to and receive material from Company to perform this Agreement.
7. not present itself as an employee, agent, representative, Remarketer or joint venture Remarketer of Company and shall not make or promise to make any representations on behalf of Company, including any warranties, refunds and/or credits.
8. comply with all laws, rules, regulations, and executive directives in the performance of this Agreement and in accordance with all Company policies and procedures.
9. do whatever else is reasonably expected in order to perform Remarketer's obligations under this Agreement.

5. Company Duties

At its cost, unless otherwise expressly stated, Company shall, as follows:

1. protect Remarketer's confidential and proprietary information and intellectual property (including, but not limited to, its trade secrets, copyrights, trade names, service marks and trademarks) with the same level of protection it employs for its own confidential and proprietary information and intellectual property, and notify Remarketer if it becomes aware of any unauthorized use of any of the foregoing;
2. make future enhancements, if any, or upgrades, if any, of the Products that Company solely sees fit. Any such enhancements and upgrades shall at all times be considered the "Products."
3. prepare and distribute to Remarketer Product marketing, advertising and/or promotional material, contracts and other documents in PDF format; and at its discretion, additional of such material in a tangible medium.
4. provide Remarketer initial training regarding all Company's procedures, prices, fees, policies and contracts.
5. inform Remarketer of updates or changes in current programs, prices, policies, and contracts.

6. have sole discretion to issue refund to any Customer and credit any Customer account.
7. comply with all laws, rules, regulations and executive directives in the performance of this Agreement.

6. Status Change

You agree to give Company prompt written notice (unless precluded by law or regulation) of any change or anticipated change in your financial condition, business structure, or operating environment (for example, a material change in equity ownership or management or any substantive change to information you provided to Company when you applied to enter into the relationship. Upon notification of such change, (or if you fail to give notice of such change) Company may, at its sole discretion, terminate this Marketing Agreement on written notice to you.

7. Payments & Invoicing

1. Company invoices Remarketer and Remarketer is financially responsible for Orders. Remarketer is responsible for invoicing and collecting from Remarketer's end users. See Exhibit 1 for eligible offerings, pricing, and payment terms.

8. Tax

1. Each party shall report, pay and be liable for all of its own respective taxes.

9. Warranties

Each party warrants that it has all the rights necessary to enter into this Agreement, and that all duties to be performed hereunder shall be performed in a competent, timely and workmanlike manner. THE WARRANTIES SPECIFICALLY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHERS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. Ownership of Property

1. All rights, title and interest, including but not limited to possession and intellectual property rights, in and to Products, Documentation, customizations, software, programs, content materials, and all other property, including but not limited to intellectual property, that Company owned prior to the Effective Date, that it created, developed or used in the performance of this Agreement, shall at all times remain

exclusively owned by Company.

2. All rights, title and interest, including but not limited to possession and intellectual property rights, in and to products, documents, software, programs, content materials, and all other property, including but not limited to intellectual property, that Remarketer owned prior to the Effective Date shall at all times remain exclusively owned by Remarketer.
3. Company hereby grants Remarketer a limited, non-exclusive, non-transferable, royalty-free license to use and display Company's trademarks, service marks, trade names, logos and other commercial designations, (collectively "Company Marks"), solely for the purpose of Remarketer's performance under this Agreement. Remarketer will not take any action inconsistent with Company's ownership of the Company Marks.
4. Remarketer hereby grants Company a limited, non-exclusive, non-transferable, royalty-free license to use and display Remarketer's trademarks, service marks, trade names, logos and other commercial designations, (collectively "Remarketer Marks"), solely for the purpose of Company's performance under this Agreement. Company will not take any action inconsistent with Remarketer's ownership of Remarketer Marks. Company Marks and Remarketer Marks will collectively be referred to as "THE MARKS."
5. All Products, Documentation, Company Marks, Company confidential information, proprietary information and intellectual property and all copies thereof must be returned to Company upon request by Company and may not be used by Remarketer during the term of this Agreement except in accordance with the terms hereof. All Remarketer confidential information, proprietary information and intellectual property and all copies thereof must be returned to Remarketer upon request by Remarketer and may not be used by Company during the term of this Agreement except in accordance with the terms hereof.

11. No Adverse Action

You shall not engage in any action that adversely affects any Company Marks. Company shall not engage in any action that adversely affects any of your Marks. During the term of this Agreement and at all times thereafter, neither party will disparage, including but not limited to slander, libel, misrepresent, injure the reputation of the other, directly or indirectly.

12. Code of Conduct

You agree to comply with the COMPANY Code of Conduct, which has been made available to You and of which you have read and understand. COMPANY may change the Code of Conduct at any time by posting a revised Code of Conduct on the above website or by providing you with notice as otherwise provided in this Agreement. You represent that you have read the Code of Conduct and agree to monitor the website

regularly for changes to the Code of Conduct. Such changes are effective immediately when they are posted to the website.

13. Liability

Circumstances may arise where, because of a default or other liability, one of us is entitled to recover damages from the other. The following terms apply as your exclusive remedy and our exclusive liability.

a. COMPANY's Liability.

1. Regardless of the basis on which you are entitled to claim damages from Company (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), Company's entire liability for all claims in the aggregate arising from or related to each Product or Service or otherwise arising under this Agreement will not exceed the amount of any actual direct damages up to the greater of U.S. [Dollar amount] (or equivalent in local currency) or the charges (if recurring, 12 months' charges apply) for the Product or Service that is the subject of the claim. This limit also applies to any of Company's subcontractors and Program developers. It is the maximum for which Company and its subcontractors and Program developers are collectively responsible.
2. The following amounts are not subject to a cap on the amount of damages:

b. Items for Which COMPANY Is Not Liable

Except as expressly required by law without the possibility of contractual waiver, under no circumstances is Company, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:

1. loss of, or damage to, data;
2. special, incidental, exemplary, or indirect damages, or for any economic consequential damages; or
3. lost profits, business, revenue, goodwill or anticipated savings.

No right or cause of action for any third party is created by this Agreement, or any transaction under it, nor is Company responsible for any third party claims against you except as described elsewhere in this Marketing Agreement or as permitted by this Liability section for bodily injury (including death) or damage to real or tangible personal property for which Company is legally liable to that third party.

c. Your Liability

In addition to damages for which you are liable under applicable law or the terms of this Agreement, you will indemnify Company for claims made against Company by others arising out of your conduct under this Agreement or as a result of your relationship with any third party, including without limitation, any claim based on representations, statements, claims or warranties not authorized by Company.

15. Confidentiality

If either party desires to exchange confidential information, such exchange will be governed by the Non-Disclosure Agreement entered into between the parties ("NDA").

15. Dispute Resolution

In the event that a dispute hereunder arises which cannot be resolved in the normal course, the following dispute resolution procedures shall be followed:

1. If a dispute arises, then within ten (10) business days of a written request by either party, Remarketer's authorized representative and Company's authorized representative shall meet in person or on the telephone and resolve the issue; if these parties cannot resolve the issue within ten (10) business days of the meeting, then (ii) the issue shall be submitted to persons in the position of [Title for Client] for Remarketer and in the position of [Title of Sender] for Company.
2. This provision shall not apply to the exclusion of claims for equitable relief (for example, injunction to prevent disclosure of confidential information).

16. Miscellaneous Provisions

1. Company reserves the right to assign this Agreement, in whole or in part, on written notice. Company is also permitted to assign its rights to payments without obtaining your consent. It is not considered an assignment for Company to divest a portion of its business in a manner that similarly affects all of its Companies. Your rights under this Agreement are not property rights and, therefore, you can not transfer them to another party or encumber them in any way. For example, you can not sell your approval to market Company's Products or Services or your rights to use Company's Trademarks. You agree not to assign or otherwise transfer this Agreement, your rights under this Agreement, or any of its approvals, or delegate any duties, unless expressly permitted to do so in this Agreement. Otherwise, any attempt to do so is void.
2. Both parties agree to the application of the laws of [PLACE] to govern, interpret, and enforce all of your and COMPANY's respective rights, duties and obligations arising from, or relating, in any manner to, the subject matter of this Agreement, without regard to conflict of law principles. If any provision of this

Agreement is held to be invalid or unenforceable, the remaining provisions of the Agreement remain in full force and effect. The "United Nations Convention on Contracts for the International Sale of Goods" does not apply.

3. This Marketing Agreement sets forth the entire understanding of the parties and supersedes any and all written or verbal agreements between the parties related to the subject matter hereof. Any amendment to this Agreement must be in writing signed by a duly authorized officer or representative of the parties.
4. Any notice required or permitted by this Agreement shall be in writing and shall be delivered in person, or sent by overnight globally recognized courier addressed to the designated representative of any party as set forth below (or such other representatives as may be designated).
5. The relationship of the parties shall at all times be one between independent contractors, and neither party shall be, nor represent itself to be, an employee, agent, representative, Remarketer or joint venture Remarketer of the other, nor shall either party have the right or authority to assume or create any obligation on behalf of, or in the name of, the other or otherwise to act on behalf of the other.
6. The terms and conditions of Orders and any other commercial transactions, if any, between Company and Customers are separate and independent of any agreements between Remarketer and Company. Remarketer has no authority than is expressly granted by this Agreement. Without limiting the foregoing, Remarketer has no authority to make any warranties or refunds.
7. The parties hereto consent to the jurisdiction and venue of [County] County in [State] and agree that all disputes between the parties may be litigated therein. Remarketer warrants that it has appointed and will retain such appointment during the term of this Agreement, the following agent which will accept the service of all process.
8. All communications, written (including but not limited to e-mail), and oral, will be in American English. If any party desires to translate, the cost of such will be on the party which desires the translation.

17. Exclusivity

Company is free to advertise, promote, market, demonstrate, offer to sell, sell and license Products in or outside the Territory to any third party, including Customers and customers of Remarketer, through itself or with the assistance of any third party. Company is free to enter into the same terms and conditions or similar terms and conditions as this Agreement with any person or entity for any customers, including but not limited to Customer(s) in or outside the Territory. Remarketer is free to advertise, promote, market, demonstrate, offer to sell, sell and license any products in or outside the Territory to any third party, including Customers and customers of Company. Remarketer is free to enter into the same terms and conditions or similar terms and conditions as this Agreement with any person or entity for any product for any customers, including Customer(s) in or outside the Territory.

18. Termination

This Agreement shall automatically terminate on [Termination date] , unless earlier terminated by a party providing thirty (30) days written notice to the other party. If either party fails to comply with a material term of this Agreement, the other party may terminate this Agreement on written notice to the non-compliant party. Examples of a “material breach” by you are if you (i) fail to maintain customer satisfaction, or to comply with the terms of a Transaction Document (for example, if you fail to pay an invoice or to meet your obligations under a statement of work), (ii) repudiate this Agreement, or (iii) make any material misrepresentations to Company. You agree that Company’s only obligation to you regarding notice of termination is to provide the notice called for in this section 18 (Agreement Termination) and Company is not liable for any claims against you or losses you may incur if Company terminates this Agreement with no additional notice.

IN WITNESS WHEREOF, and intending to be legally bound, the parties have executed this Agreement through their authorized representatives on the date first above written.

[Sender.Company]

[Client.Company]

[Sender.FirstName] [Sender.LastName]

[Client.FirstName] [Client.LastName]

Exhibit 1

Authorized Products and Pricing

[illegible]