

DATED THIS _____ DAY OF _____

BETWEEN

SAMURAI INTERNET SDN BHD
(Company No.:1136750-D)
("Company")

AND

[_____]
(Company No.: _____)
("Client")

REFERRAL SERVICE AGREEMENT

This REFERRAL AGREEMENT ("**this Agreement**") is made on this _____ day of _____

- (1) **SAMURAI INTERNET SDN BHD** (Company No.: 1136750-D), a company incorporated in Malaysia and having its business address at Block 3730, Persiaran APEC, 63000 Cyberjaya ("**Company**") of the one part;

AND

- (2) [_____] (Company No.: _____), a company incorporated in Malaysia and having its business address at [_____] ("**Client**") of the other part.

The Company and the Client shall collectively referred to as "**Parties**".

WHEREAS

- A. The Company maintains a website known as "NewPropertyList.my" which is generally used as a real estate comparison website and is in the business of providing real estate related information to users of the Website.
- B. The Client is a real estate offering or selling real estate products or services in Malaysia.
- C. The Client is desirous to appoint the Company and the Company is desirous to be appointed to provide the Service (as defined herein) to the Client.

NOW IT IS HEREBY AGREED as follows:

1. **DEFINITIONS**

In this Agreement unless the context otherwise requires, the words, terms and expressions used herein shall have the following meanings:

"**Effective Date**" means [_____];

"**Intellectual Property**" means any or all (a) copyrights and other rights associated with works of authorship in relation to the information furnished by the Client to the Company; and (b) trademarks or trade names of the respective real estate companies;

"**Monthly Limit**" means the maximum price of budget per project to be referred by the Company to the Client on monthly basis in accordance to the preference set by the Client per project.

“Personal Data”	means the personal data submitted by the Potential Customers, which will be forwarded to the Client in order for the Client to contact the users with a view to introduce relevant real estate products or services;
“Potential Customers”	means the users of the Website who have submitted their Personal Data to the Company;
“Service”	means (a) the publication of real estate related information offered by the Client in the Website; and (b) the referral of the Potential Customers by the Company to the Client in accordance to the Potential Customers’ preference on the real estate products or services published in the Website;
“Service Fee”	means the referral fee payable by the Client to the Company for the Service in accordance to Clause 3;
“Website”	means a website developed and maintained by the Company to publish real estate related information offered by the Client whereby visitors of the website are able to submit their Personal Data for the Client to contact them with a view to introduce the relevant real estate products or services.
“Project”	means the property which client advertises in our website.

2. **APPOINTMENT**

Subject to and in accordance with the following terms and conditions, the Client agrees to appoint the Company to provide the Service to the Client.

3. **SERVICE FEE AND PAYMENT**

3.1 **Service Fee**

The Service Fee shall be decided that based on both parties discussion for each one (1) individual Potential Customer referred by the Company to the Client.

3.2 **Payment of Service Fee**

- 3.2.1 The Company shall issue invoices to the Client on the following schedule.
first (1st) working day of the calendar month based on the number of Potential Customers referred to the Client.
All invoices issued by the Company shall be paid by the Client within the fourteenth of

each month.

- 3.2.2 Without prejudice to the Company's rights in this Agreement, the Company shall have the absolute right, exercisable at its option, to suspend all its obligations under this Agreement in the event the Client defaults in the payment conditions stipulated in this Agreement.

4. **OPERATION OF THE WEBSITE**

The Company shall provide the Client with a unique user identification and password to access the Website to view the list of the Potential Customers. The Client undertakes that it shall not disclose its user identification and password to any person saves for its employees strictly on a need to know basis.

5. **INTELLECTUAL PROPERTY**

During the term of this Agreement, the Client shall grant the Company the right to use its Intellectual Property for the purpose of this Agreement.

6. **CLIENT'S WARRANTY**

- 6.1 The Client warrants and undertakes to the Company that:

6.1.1 it has full power and authority to enter into this Agreement;

6.1.2 it has taken all necessary corporate actions or other actions to authorise the execution, delivery and performance of this Agreement;

6.1.3 the execution and performance of this Agreement will not violate the provisions or obligations of any other agreements to which the Client is a party or by which it is bound;

6.1.4 to the best of the Client's knowledge, all information in relation to the real estate products or services provided by the Client to the Company are up-to-date, complete, correct, accurate and not misleading;

6.1.5 it is the registered proprietor, licensee or authorised by the proprietor of the Intellectual Property to use the Intellectual Property and has the right to grant the Company the right to use the Intellectual Property for the purpose of this Agreement;

- 6.2 The Client undertakes to indemnify and hold harmless the Company against any loss or damage that the Company may suffer as a result of a breach by the Client of Clause 6.1 above and any disputes between the Client and any third parties in relation to the performance of this Agreement.

7. **PROCESSING OF PERSONAL DATA**

The Client agrees to comply with the Malaysian Personal Data Protection Act 2010 when it processes the Personal Data, in particular but not limited to ensuring that consent is obtained from individual Potential Customers (whether through the Company or otherwise) and that Potential Customers are notified of the processing of Personal Data by the Client, not disclosing the Personal Data received from the Company to any person without prior written consent from the Potential Customers save for its employees or agents who will carry out the necessary follow up actions to introduce the real estate products or services to the Potential Customers and ensuring that Personal Data is kept secured.

8. **TERMINATION**

8.1 Either Party may terminate this Agreement:

8.1.1 by giving the other Party written notice of its intention to terminate this Agreement for any reason that effect at the end of month of written notice been made by either Party;

8.1.2 if either Party, being a company pass a resolution or the Courts make an order that the company be wound up otherwise than for the purpose of reconstruction or amalgamation or if a receiver or manager on behalf of a creditor appointed, the other Party shall be entitled to terminate this Agreement by notice in writing;

8.1.3 if either Party's business licenses or relevant approvals are revoked or suspended such that such Party is unable to lawfully carry on the business and its obligations under this Agreement;

8.1.4 if an event of Force Majeure as defined under Clause 10 continues for a period of sixty (60) days and materially affects either or both Parties ability to perform its obligations under this Agreement; or

8.1.5 if either Party is in breach or in default of any material term of this Agreement and such breach is not remedied within fourteen (14) days upon receipt of written notice by the other Party, the aggrieved Party shall be entitled to terminate this Agreement by giving a further thirty (30) days written notice to the defaulting Party of its intention to terminate this Agreement.

8.2 In the event the Client's products and services receives complaints and negative feedback from users of the Website, the Company has a right to terminate this Agreement and cease providing the Service to the Client by giving the Client fourteen (14) days prior notice of termination.

9. **CONFIDENTIALITY**

9.1 Each of the Parties undertakes to the other Party to keep confidential all information (written or oral) concerning the business and affairs of the other Party and include all Personal Data

that it obtained or received as a result of the discussions leading up to or entering into of this Agreement or performance of this Agreement ("**Confidential Information**") save that which is:

- 9.1.1 trivial or obvious;
 - 9.1.2 already in its possession other than as a result of a breach of this Clause;
 - 9.1.3 in the public domain other than as a result of a breach of this Clause; or
 - 9.1.4 in the opinion of either Party's legal counsel is required to be disclosed pursuant to any governmental, judicial or statutory requirement.
- 9.2 Each of the Parties undertakes to the other to take all such reasonable steps from time to time to ensure compliance with Clause 9.1 above by its employees, agents and sub-contractors.
- 9.3 Without prejudice to any other rights or remedies that any Party may have, the party receiving the Confidential Information ("**Receiving Party**") acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the provisions of this Clause 9. The Receiving Party acknowledges without proof of actual damages that injunctive relief, specific performance or other equitable relief in favor of the relevant party disclosing the Confidential Information ("**Disclosing Party**") is an appropriate and necessary remedy for breach of this Clause.
- 9.4 The Receiving Party agrees to indemnify the Disclosing Party for any costs, claims, demands, liabilities and expenses of whatever nature that such Party may incur arising directly or indirectly out of a breach of the Receiving Party's obligations under this Clause 9.
- 9.5 This Clause shall survive termination of this Agreement.
10. **FORCE MAJEURE**
- 10.1 Neither Party shall be liable for any delay in performing any of their obligations hereunder if such delay is caused by circumstances beyond the control of the Party so delaying.
- 10.2 An event of "Force Majeure" shall include but not be limited to:
- 10.2.1 war, hostilities (whether declared or not), invasion, act of foreign enemies, rebellion, insurrection, revolution or military usurpation of power, civil war, terrorism;
 - 10.2.2 ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste, from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- 10.2.3 pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds;
 - 10.2.4 natural catastrophe including but not limited to earthquakes, floods, subsidence, lightning or any operation of the forces of nature; or
 - 10.2.5 riot and disorders, strike, lockout, labour unrest or other industrial disturbances (affecting the performance of this Agreement) which is not the fault of the Company which causes, or can reasonably be expected to cause either Party to fail to comply with its obligations hereunder.
- 10.3 Subject to Clause 8.2.4, on the occurrence of any of the Force Majeure event, the time for performance required by either Party under this Agreement shall be extended for any period during which the performance is prevented by the intervening circumstance.

11. **NOTICES**

- 11.1 Unless otherwise expressly agreed between the Parties, all notices, demands and other communications ("**Notices**") to be given hereunder shall be given in writing and addressed to the addresses of the Parties hereinbefore mentioned on such other addresses as any of the Parties may designate from time to time by written notice to the other Party.
- 11.2 All such Notices shall be deemed to have been duly served if:
- 11.2.1 sent by post, seven (7) days after the envelope containing the same was so posted and the proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that it has not been so returned to the sender, shall be sufficient evidence that such notice or information has been duly given;
 - 11.2.2 sent by facsimile transmission or comparable means of communication shall be deemed to have been duly sent on the date of transmission;
 - 11.2.3 sent by hand, upon delivery and acknowledgement of receipt by the addressee;
 - 11.2.4 sent by electronic mail or E-mail, upon delivery and acknowledgement of receipt by the addressee; and
 - 11.2.5 sent by courier, upon delivery by any commercial courier service.

12. **ENTIRE AGREEMENT AND VARIATION**

- 12.1 This Agreement constitutes the entire agreement between the Parties with respect to subject matter and there are no representations, understanding or agreements which are not fully expressed herein.

- 12.2 Any variation, amendment or clarification of this Agreement must be mutually agreed upon by both Parties in writing and reflected in a written amendment to this Agreement executed by both Parties.

13. **GOVERNING LAW**

This Agreement shall be governed and constructed in accordance to the laws of Malaysia.

14. **WAIVER**

The waiver by either Party of a breach or default of any of the provisions of this Agreement by the other Party shall not be construed as a waiver of any succeeding breach of the same or other provision nor shall any delay or omission on the part of either Party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.

15. **ASSIGNMENT**

This Agreement shall not be assigned in whole or in part by either Party without prior written consent of the other Party provided that such consent shall not be unreasonably withheld.

16. **INVALIDITY AND SEVERABILITY**

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision that which achieves to the greatest possible economic, legal and commercial objectives of the invalid or unenforceable provision.

17. **SUCCESSOR BOUND**

This Agreement shall be binding upon the successors in title and the assigns of the Parties and when the context so admits shall include the persons deriving title under them respectively.

18. **COST**

Each Party will bear its respective solicitor's cost for the preparation and the execution of this Agreement but the stamp duty of this Agreement shall be borne by the Client.

19. **TIME**

Time shall be the essence of this Agreement.

20. **NO EXCLUSIVITY**

This Agreement shall not be construed to be a commitment by either Party to work exclusively with the other Party regarding referral of Potential Customers or any other business activities.

IN WITNESS WHEREOF the Parties have by their respective duly authorized representatives have set their respective hands the date and year first written above.

SIGNED for and on behalf)
SAMURAI INTERNET SDN BHD)
(Company No.:1136750-D))

.....
Name: Ryohei Takehara
Designation: Director
Company stamp

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SIGNED for and on behalf)
(_____)
(Company No.: _____)

.....
Name :
Designation :
Company stamp

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