**Representative Name**

**Effective Date**

****

**REFERRAL AGREEMENT**

**REPRESENTATIVE INFORMATION:**

Name:

Address:

City: State: Zip:

Contact Name: Title:

Telephone: E‑Mail:

Nature of Representative:

🞏 Individual/Sole Proprietorship 🞏 Corporation 🞏 Limited Liability Company 🞏 Partnership

🞏 Other:

**AGREEMENT:**

Secure Digital Solutions, LLC, a Minnesota corporation (“**SDS**”), has developed and owns rights to the TrustMAPP™ software application and associated services include MAPP™ methodology supported by TrustMAPP (collectively, “**TrustMAPP**”). The party identified above (collectively with its employees, agents and representatives, referred to as “**Representative**”) wishes to obtain, and SDS is willing to grant to Representative, a limited and non-exclusive right to promote TrustMAPP to prospective clients pursuant to the attached standard terms and conditions of this agreement (“**Agreement**”).

**SIGNATURES:**

*By signing below, the undersigned certify that they have read and understand, and agree to be legally bound by, the terms and conditions of this Agreement, including the terms and conditions contained in any exhibits to this Agreement.*

**REPRESENTATIVE Secure Digital Solutions, LLC**

By: By:

(Authorized Signature) (Authorized Signature)

Name: Name:

(Print) (Print)

Title: Title:

INDEPENDENT SALES REPRESENTATIVE AGREEMENT

STANDARD TERMS AND CONDITIONS

**SECTION 1. DEFINITIONS**

For purposes of this Agreement, the following terms shall have the following meanings:

**“Confidential Information”** shall mean all nonpublic information of any kind, whether written or oral, regarding SDS or any of its businesses or operations, including, without limitation, information concerning TrustMAPP as well as SDS’s other products, services, web site, software, product development, product pricing, product maintenance, business plans, strategies, business partners and alliances, finances, operations, assets, suppliers, customers, clients, employees, contracts, systems and processes, whether such information is obtained before or after the date of this Agreement, through any means or source or from any SDS officer, director, employee, shareholder, advisor, consultant, contractor, agent or representative. Notwithstanding the foregoing, Confidential Information shall exclude information (a) available to the public other than by a breach of this Agreement; (b) rightfully received from a third party not in breach of a contractual, fiduciary or other obligation of confidentiality; (c) known to Representative at the time of disclosure as evidenced by the written records of Representative at the time of disclosure; or (d) solely to the extent produced in compliance with any law or court order; provided, however, that Representative gives SDS reasonable notice under the circumstances and as allowed by law that such Confidential Information is being sought by a third party, so as to afford SDS the opportunity to limit or prevent such disclosure.

**“Client”** shall mean any Prospect that licenses TrustMAPP from SDS pursuant to a valid Client Agreement.

**“Client Agreement”** shall mean a license, subscription and/or services agreement executed by SDS and Client whereby Client is provided access to TrustMAPP, together with all other applicable terms and conditions and any addenda or other attachments thereto.

**“Intellectual Property Rights”** shall mean the intangible legal rights or interests evidenced by or embodied in (a) any idea, design, concept, technique, invention, discovery or improvement, regardless of patentability, but including patents, patent applications, trade secrets, and know-how; (b) any work of authorship, regardless of copyrightability, but including copyrights and any moral rights recognized by law; (c) any trademark, trade name, or service mark; and (d) any other similar rights, in each case, on a worldwide basis and including all associated goodwill.

**“Prospect”** shall mean any individual, entity, partnership (whether general, limited, limited liability or otherwise), limited liability company, corporation, association or other unincorporated association identified in Exhibit A attached hereto, as may be amended from time to time in writing by the parties, that is introduced to SDS solely through the efforts of Representative and with whom SDS or its representatives do not have a preexisting relationship (whether business or personal).

# **SECTION 2. GRANT OF LICENSE**

**2.1 Promotional License.** SDS hereby grants to Representative, and Representative hereby accepts from SDS, a nontransferable, nonexclusive limited right and license during the term of this Agreement to reproduce or copy SDS’s promotional literature, brochures, pamphlets and other marketing materials describing TrustMAPP which Representative and SDS deem reasonably necessary to fulfill Representative’s promotional obligations under this Agreement, provided that all copyright, trademark and other property markings of SDS are reproduced in full without modification and subject to SDS’s approval prior to usage. Such promotional materials, including all copies and reproductions made by Representative, shall remain the property of SDS (except insofar as they are distributed by Representative in the course of the performance of its duties), and shall be promptly returned to SDS upon the expiration or termination of this Agreement.

**2.2 Reserved Rights.** All rights not specifically granted to Representative hereunder are reserved by SDS. Except for the limited non-exclusive license granted to Representative under Sections 2.1 and 8.1, SDS does not convey any Intellectual Property Rights to Representative. Except as otherwise expressly set forth in this Agreement, Representative acknowledges that SDS reserves the right to promote and license TrustMAPP to customers and clients directly, to exclude certain Prospects and to appoint other representatives and/or resellers.

SECTION 3. OBLIGATIONS OF REPRESENTATIVE

**3.1 Promotional Efforts.** Representative shall use commercially reasonable efforts to promote SDS and TrustMAPP to Prospects. Promotion activities shall include, without limitation: (a) informing each Prospect of the benefits and advantages of TrustMAPP; (b) introducing SDS sales staff to Prospects; and (c) assisting SDS sales staff, when requested, in obtaining Client Agreements. Representative and its employees and other representatives shall not make any representation or warranty regarding TrustMAPP on behalf of SDS and shall not assume or create any obligation or responsibility, express or implied, on behalf of or in the name of SDS. Representative shall (i) make no false or misleading representations with regard to SDS or TrustMAPP; and (ii) refrain from making any representations, warranties or guarantees to Clients or Prospects that are inconsistent with the Client Agreement, policies or any literature distributed by SDS.

**3.2 Representative Employees.** Representative shall have full and sole responsibility for the acts and/or omissions of its employees, agents and representatives, and for all matters relating to their conditions of employment or retention, and shall indemnify and hold SDS harmless from and against any claims or allegations, and costs arising from such acts, omissions or matters including, but not limited to, all attorneys’ fees and costs related thereto. The foregoing includes, without limitation: (a) any act or omission contrary to applicable law or violative of the rights of any third parties; (b) responsibility for compensation including, without limitation, all payroll matters, withholdings and related tax matters; (c) workplace matters including, without limitation, discrimination in employment and harassment; (d) job-related injury or illness including, without limitation, all worker’s compensation insurance and claims handling matters; and (e) any representations, warranties or guarantees made by such employees, agents, representatives and subcontractors in violation of this Agreement.

**3.3 Expenses.** Representative shall have full and sole responsibility for its own expenses and those of its employees, agents, representatives and subcontractors, including, without limitation, all travel and related costs.

**3.4 Training and Literature.** SDS may from time-to-time develop and provide Representative with service, promotional and other training programs, and other necessary product and technical information for TrustMAPP. Upon reasonable request, Representative agrees to attend, assist and cooperate in such training programs.

**3.5 Additional Representative Obligations.** Representative shall promptly notify SDS of any complaints or other issues raised by Prospects or Clients regarding SDS or TrustMAPP.

## **SECTION 4. COMPENSATION AND ELIGIBILITY**

In consideration of Representative’s promotional efforts, SDS shall pay compensation to Representative in accordance with the terms and conditions set forth in Exhibit A attached hereto.To be eligible for compensation based on the referral of a Prospect, the Prospect must complete a valid Client Agreement within six (6) months from the date such Prospect is validly added to Exhibit A (the “**Registration Period**”). SDS may decline, for any reason in its sole discretion, to negotiate with any Prospect or to accept a Client Agreement. SDS may, in its sole discretion, extend the Registration Period applicable to a Prospect for any period of time. Once the Registration Period applicable to a Prospect has expired, SDS reserves the right to market TrustMAPP directly to such Prospect and Representative shall have no claim for compensation based on any Client Agreement executed by SDS with such Prospect; provided that, SDS acted in good faith during the Registration Period to accept Client Agreement from such Prospect prior to the end thereof.

# **SECTION 5. TERM AND TERMINATION**

* 1. **Term.** This Agreement shall remain in effect for a period of one (1) year from the Effective Date set forth on the front cover (the “**Initial Term**”). Unless either party gives written notice to the other party of its desire not to renew this Agreement at least thirty (30) days prior to the end of the then applicable term, this Agreement shall renew for one (1) year periods (each, a “**Renewal Term**”, together with the “Initial Term”, the “**Term**”).

5.2 Termination Without Cause. Subject to the conditions and limitations of this Agreement, either party may terminate this Agreement without cause at any time upon thirty (30) days prior written notice to the other party. If SDS terminates this Agreement pursuant to this Section 5.2, Representative’s right to receive compensation will continue for the remainder of the then applicable Initial Term or Renewal Term as if this Agreement had not been terminated. If Representative terminates this Agreement pursuant to this Section 5.2, Representative’s right to receive compensation will cease on the effective date of such termination.

5.3 Termination With Cause. This Agreement may be terminated by either party immediately upon written notice, (a) if the other party breaches any obligation hereunder and the breaching party fails to cure such breach within ten (10) days after such notice, or (b) if the other party is the subject of a voluntary or involuntary bankruptcy, reorganization or liquidation proceeding, is insolvent, makes an assignment for the benefit of creditors or admits in writing its inability to pay debts when due. If SDS terminates this Agreement pursuant to this Section 5.3, Representative’s right to receive compensation will cease immediately. If Representative terminates this Agreement pursuant to this Section 5.3, Representative’s right to receive compensation will continue for the remainder of the then applicable Initial Term or Renewal Term as if this Agreement had not been terminated.

**5.4 Consequences and Survival.** Upon termination or expiration of this Agreement for any reason, (a) Representative shall cease all advertising, display and use of all SDS names, trademarks, logos, designs or other Intellectual Property Rights and will not thereafter use, advertise, or display any such names, trademarks, logos, designs or other Intellectual Property Rights, (b) Representative shall return to SDS, all property, equipment and materials provided to Representative by SDS, all lists and other writings containing information relating to the Clients and all copies of the foregoing, and (c) each party shall promptly remove from its web site (if any) any links or other references to the other party’s web site, products and/or services. Neither party shall make any disparaging remarks about the other party during and after the Term.

# **SECTION 6. LIMITED WARRANTY**

**6.1 Disclaimer.** AS BETWEEN THE PARTIES, SDS PROVIDES TRUSTMAPP “AS-IS” AND WITHOUT ANY WARRANTIES. SDS HEREBY DISCLAIMS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, ARISING FROM A COURSE OF DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR ANY OTHER WARRANTY REGARDING TRUSTMAPP.

**6.2 Exclusion of Consequential Damages.** IN NO EVENT SHALL SDS BE LIABLE TO REPRESENTATIVE OR ANY CLIENT OR OTHER PERSON FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF SDS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**6.3 Limitation of Liability.** IN THE EVENT THAT, NOTWITHSTANDING SECTION 6.1 OR 6.2 ABOVE, SDS IS FOUND LIABLE FOR DAMAGES, ITS AGGREGATE LIABILITY SHALL NOT EXCEED THE COMPENSATION DUE TO REPRESENTATIVE UNDER THIS AGREEMENT, WHICH BOTH PARTIES AGREE TO BE A REASONABLE LIMITATION AND A BASIS OF THE BARGAIN.

**6.4 Indemnification.** Both parties shall indemnify, defend and hold the other party, and its officers, directors, employees, members, agents and affiliates (each, an “**Indemnified Party**”) harmless from and against any and all costs, liabilities, losses and expenses, including, but not limited to, reasonable attorneys’ fees, resulting from or arising out of any claim, suit, action, arbitration or proceeding brought by a third party against any Indemnified Party relating to: (a) a breach or alleged breach by either party of any of its representations, warranties, covenants or obligations hereunder, (b) infringement or misappropriation of any Intellectual Property Rights by either party, (c) any negligence or willful misconduct of either party or their employees and agents, or (d) any other claim related to either party’s performance under this Agreement.

# **SECTION 7. RELATIONSHIP OF THE PARTIES**

**7.1 Relationship of the Parties.** The relationship of SDS and Representative established by this Agreement shall be solely that of independent contractors, and nothing herein shall create or imply any other relationship. Nothing in this Agreement shall be construed to give either party the power to direct or control the daily activities of the other party. SDS does not grant Representative the power or authority to make or give any agreement, statement, representation, warranty, or other commitment on behalf of SDS, or to enter into any contract or otherwise incur any liability or obligation, express or implied, on behalf of SDS, or to transfer, release, or waive any right, title, or interest of SDS.

**7.2 Changes to TrustMAPP; Competitive Products.** SDS reserves the right at any time without liability or prior notice to change or terminate any of the specifications, features, or functions of TrustMAPP. Representative shall not resell products or services which compete directly or indirectly with TrustMAPP during the time it is entitled to receive compensation under this Agreement.

* 1. **Expenditures.** Representative acknowledges and agrees that any expenses it incurs in furtherance of this Agreement are voluntary in nature and are made with the knowledge that this Agreement may be terminated as provided herein. Representative shall make no claim against SDS, and SDS shall not be liable with respect to the recoupment of any expenditures or investment made by Representative in anticipation of the continuation of this Agreement for any particular period of time.
  2. **Client Billing and Support.** SDS shall have the right to establish the prices and terms in each Client Agreement and will be responsible for collection of payments from Clients. SDS shall, except as set in this Agreement, be entitled to all revenues deriving from such Client Agreements.

SECTION 8. INTELLECTUAL PROPERTY RIGHTS

8.1 Intellectual Property Rights. SDS shall have and retain sole ownership of all its Intellectual Property Rights relating to TrustMAPP or otherwise, including all goodwill pertaining thereto. SDS hereby grants to Representative the limited, nonexclusive right and license to use SDS’s Intellectual Property Rights solely in connection with and solely to the extent reasonably necessary for the marketing of TrustMAPP in accordance with the terms and conditions of this Agreement. Representative shall market TrustMAPP only under SDS’s trademarks, and not any other trademark or logo without the prior written consent of SDS.

**8.2 No Copying, Reverse Engineering.** Representative shall not copy, reverse engineer, disassemble, decompile, translate, or modify TrustMAPP or the Intellectual Property Rights found in TrustMAPP, or grant any other person or entity the right to do so.

**8.3 Confidential Information.**  During the course of performance of this Agreement, SDS may disclose certain Confidential Information to Representative solely to permit Representative to perform its obligations under this Agreement. Representative shall maintain the secrecy of all such Confidential Information. Representative shall not use, disclose or otherwise exploit any Confidential Information for any purpose not specifically authorized by SDS in this Agreement. All files, lists, records, documents, drawings, specifications, equipment and computer programs that incorporate or refer to any Confidential Information shall be returned, deleted or destroyed by Representative promptly upon termination or expiration of this Agreement.

**8.4 Notification.** Representative shall promptly notify SDS of: (a) any claims, allegations, or other notification that its marketing, licensing, support, or delivery of TrustMAPP may or will infringe the Intellectual Property Rights of any other person; and (b) any determination, discovery, or notification that any person is or may be infringing the Intellectual Property Rights of SDS. Representative shall not take any legal action relating to the protection or defense of any Intellectual Property Rights pertaining to TrustMAPP without the prior written approval of SDS.

**SECTION 9. GENERAL PROVISIONS**

**9.1 Entire Agreement; Amendment.** This Agreement, including any exhibits and schedules hereto, constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, both oral and written, with respect to the subject matter hereof. No amendment or modification of this Agreement or any provision or attachment of this Agreement shall be effective unless in writing and signed by both parties.

**9.2 Counterparts.** This Agreement and any exhibit or schedule may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. The parties agree that this Agreement and any exhibit or schedule may be delivered by facsimile signature or electronic mail.

**9.3 Severability.** If any term or provision of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining terms and provi­sions of this Agreement shall remain in full force and effect, and such invalid, illegal or unenforceable term or provision shall be deemed not to be part of this Agreement.

* 1. **Governing Law; Venue.** This Agreement shall be governed by and construed, interpreted, and enforced in accordance with the laws of the state of Minnesota, without reference to its conflicts or choice of law principles. The parties agree that the sole and exclusive jurisdiction and venue for any and all unresolved disputes related to this Agreement shall be in any trial court located in or serving Hennepin County, Minnesota.
  2. **Notices.** Any notice shall be delivered by hand, by courier service, or by certified mail (return receipt requested, postage prepaid). Notices to Representative shall be addressed to the address given on the signature page of this Agreement. Notices to SDS shall be addressed to the attention of the President at the address on the front cover of this Agreement. The above referenced addresses and contact information may be changed by either party by written notice to the other in accordance with this Section. Notices shall be effective: (a) as of the date personally delivered if by hand or (b) for notices sent by certified mail, five (5) business days after the postmark date, or (c) upon receipt if sent by courier service such as Federal Express, U.P.S., or DHL. Notices also may be delivered by facsimile or other electronic transmission and notices so delivered shall be effective upon actual receipt of the electronic transmission.

**9.6 Survival.** The provisions of Sections 1, 2.2, 3.2, 5.4 and 6 through 9 shall survive the termination or expiration of this Agreement and remain in full force and effect.

**9.7 Waiver.** Except as specifically provided in a written waiver signed by a duly authorized representative of the party seeking enforcement, the failure to enforce or the waiver of any term of this Agreement shall not constitute the waiver of such term at any time or in any circumstances and shall not give rise to any restriction on or condition to the prompt, full and strict enforcement of the terms hereof.

**9.8 Assignment and Benefit.** Neither party may assign this Agreement without the prior written consent of the other party; provided, however, either party may assign this Agreement in connection with a merger, consolidation, sale, reorganization or other disposition of the business operations relating to TrustMAPP products and related services. Representative may not delegate its duties hereunder without the prior written consent of SDS. Any attempt by Representative to assign any of its rights or delegate any of its duties shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of Representative and SDS and their successors and permitted assigns, subject to the other provisions of this Section.

**9.9 Third Parties.** Nothing in this Agreement, express or implied, shall create or confer upon any Person not a named party to this Agreement any legal or equitable rights, remedies, obligations, liabilities or claims with respect to this Agreement, except as expressly provided herein.



**INDEPENDENT SALES REPRESENTATIVE AGREEMENT**

**EXHIBIT A**

**PART I: PROSPECTS (Confidential)**

**1.**

**2.**

**3.**

**4.**

**5.**

**6.**

**7.**

**8.**

**9.**

**10.**

Additional Prospects must be agreed to by both parties in advance. The parties acknowledge and agree that an email from Representative identifying additional Prospects, and accepted and acknowledged by SDS’s return email, shall be sufficient writing to amend this list.

**PART II: COMPENSATION INFORMATION**

SDS shall compensate Representative pursuant to the schedule below for each Client which Representative actively and materially contributes to the execution of a Client Agreement between SDS and Client. SDS will strive to pay commissions within thirty (30) days of receipt of payment from Client. Any payments shall be accompanied by an itemized statement setting forth the computation or calculation used to determine the aggregate payment. All disputes regarding payments shall be presented by Representative to SDS within sixty (60) days of the applicable period related to such disputed payments and shall be handled by amicable, good-faith negotiations. Any payments not disputed within such time period shall be deemed acceptable to Representative. In the event that SDS disburses commission payments to Representative in excess of the earned amount, the parties hereby acknowledge the amount of overpayment is an indebtedness to SDS by Representative, and SDS shall deduct said indebtedness from any future disbursements, or if no future disbursements are due, Representative shall promptly pay such indebtedness to SDS upon request.

Compensation is subject to reduction, suspension or cancellation, in SDS’s sole discretion, if payment by the Client pursuant to the Client Agreement is delinquent or delayed, or becomes the subject of legal proceedings, including without limitation, a collections action, or bankruptcy or insolvency proceeding. Commissions shall be restored or resumed in whole or in part, as warranted, upon resolution of the condition giving rise to a reduction or suspension.

**PART III: COMPENSATION SCHEDULE**

**20% of first year (set by Client Agreement Effective date) TrustMAPP Subscription Revenue per Referred Prospect. In the event Representative successfully executes five (5) Client Agreements, during the calendar year, Representative shall receive an additional 5% commission (total commission not to exceed 25%), based on first-year annual gross TrustMAPP Subscription Revenue received from the Referred Prospects.**