

## **SERVICE REFERRAL AGREEMENT**

**THIS SERVICE REFERRAL AGREEMENT** (the "Agreement" ) is made and entered into on the date accepted by the Company identified below in the acceptance process ("Referral Representative") , and Comcast Cable Communications Management, LLC on behalf of its applicable affiliates and subsidiaries ("Comcast").

### **BACKGROUND:**

**WHEREAS**, Comcast, through its subsidiaries, affiliates and/or managed partnerships, provides commercial communications services to business customers as more particularly described in Exhibit "A", found at <<INSERT LINK>> (the, "Service(s)"); and

**WHEREAS**, the parties desire for Referral Representative to refer prospective business customers of the Services ("Prospects") within the Comcast territory, described as Comcast's serviceable areas (the, "Territory"), to Comcast.

**NOW, THEREFORE**, based upon the mutual benefits and agreements herein contained and intending to be legally bound hereby, the parties agree as follows:

- 1) Appointment. Comcast hereby appoints Referral Representative on a non-exclusive basis, to refer Prospects located in the Territory to Comcast, in accordance with the terms and conditions herein. Comcast reserves the right to market and sell the Services directly on its own behalf and/or through other agents, inside and outside the Territory. Comcast reserves the right to change Exhibit A upon five (5) days written notice to Referral Representative.
- 2) Independent Contractor. Referral Representative's appointment hereunder is as an independent contractor and not a partner or employee of Comcast. This limited appointment shall not create a joint venture, franchise, or partnership or agency relationship at law. Referral Representative hereby waives the benefit of any state, provincial, or federal laws or regulations dealing with the establishment and regulation of franchises.
- 3) Relationship of Parties. Each party acknowledges that it has separate responsibility for all applicable federal, state and local taxes for itself and any of its employees, and each party agrees to indemnify and hold the other harmless from any claim or liability therefore. Each party understands and agrees that its respective employees shall not be entitled to participate in health or disability insurance, retirement or pension benefits, if any, to which employees of the other party may be entitled. Neither party is authorized to make any promise, warranty or representation on the other party's behalf with respect to the Services or to any other matter, except as expressly authorized in writing by the other party.
- 4) Responsibilities of Referral Representative
  - a) Referral Representative shall use its best efforts to promote and refer the Service. In referring Prospects hereunder, Referral Representative shall submit to Comcast's designated location a referral form. Comcast may at any time revise the Referral Form and the referral process, including without limitation, utilizing a web-based referral/qualification process. Under no circumstances shall Referral Representative be entitled to receive commissions for any referral that is not made via a Referral Form (or such other referral process as Comcast may designate in writing). Referral Representative agrees that it shall only submit Referral Forms based upon a Service request made from a prospective Prospect to Referral Representative.
  - b) Referral Representative shall have no right or obligation to bill or collect from Comcast customers or Prospects any fees or charges for the Services.
  - c) Referral Representative agrees that it shall not conduct any advertising or marketing campaigns, including, but not limited to, telemarketing, e-mail, radio, television or print advertising, for the Services;

- d) Referral Representative understands and agrees that Comcast will set the terms, conditions and prices for the Services and that Referral Representative shall not imply or represent anything to the contrary to any person or entity. Referral Representative shall not make any representations or warranties or use any materials or provide any information regarding the Services that have not been provided by or expressly approved in writing by Comcast.
  - e) Referral Representative shall comply with all federal, state, county, and local laws, rules and regulations, as directed by Comcast in writing. Referral Representative shall, and shall cause its employees, subcontractors and agents to adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct in all dealings with Comcast customers, Prospects and the public. Referral Representative shall at all times conduct its operations and manage its personnel that its action, or the actions of its subcontractors, agents, or employees, will not negatively impact Comcast or its public relations with the community.
- 5) Responsibilities of Comcast.
- a) Comcast will determine in its sole discretion whether a Prospect identified on a Referral Form is in a serviceable area and whether such referred Prospect meets all of Comcast's Service criteria. Commissions will be paid for successful referrals in accordance with Section 6.
  - b) A Prospect identified on a Referral Form who has been previously referred to Comcast by a person other than Referral Representative during the ninety (90) day period immediately preceding shall not qualify for a Commission. Further, no Commission shall be payable in connection with any referred Prospect who has terminated Service at the same address twice.
  - c) Comcast will be solely responsible for installation and activation of the Services to potential Prospects, billing, technical support, customer service and termination of Services.
- 6) Commissions; Reporting.
- a) During the term of this Agreement and subject to the terms and conditions herein, Comcast shall pay to Referral Representative commissions ("Commissions") in accordance with the terms and conditions specified in Schedule 1, found here <<INSERT LINK>>. Referral Representative acknowledges and agrees that Comcast may revise all Schedule 1 rates, terms and conditions upon at least thirty (30) days prior written notice. The Commissions shall be the full and total compensation due to Referral Representative under this Agreement.
  - b) Commissions will only be paid upon the installation of Comcast's "Business Services" Service plans as identified in Schedule 1 (unless Comcast specifically designates other qualified service plans and corresponding commissions through a written revision of Schedule 1), to a Prospect location ("Location") within the Territory, resulting directly and solely from Referral Representative's submission of a Referral Form and otherwise following all reporting procedures specified in this Agreement.
  - c) Referral Representative agrees to provide written notification of all disputes it may have regarding unpaid Commissions (and as the case may be, charge-backs, as defined in Schedule 1) within thirty (30) days of the date such Commission is earned or claimed to be earned (or date of the chargeback) and any dispute for which Referral Representative does not provide such notification shall be deemed waived. Reasonable delay in paying Commissions disputed in good faith, shall not constitute a breach of this Agreement.
  - d) During the term of this Agreement, Comcast shall provide Referral Representative with the ability to access to online status reporting, identifying the number of Service installations for Prospects referred hereunder. Such report shall be used solely for the purpose of reconciling Commissions owed hereunder and shall be treated as strictly confidential information of Comcast, in accordance with the confidentiality provisions under Section 8, hereof. Referral Representative shall indemnify and hold harmless Comcast from any claims resulting from the use or disclosure of such information in violation of the provisions this Agreement.

- 7) Trademarks and Service Marks. Except as expressly set forth herein, Referral Representative shall not be deemed by this Agreement or any provision hereof to acquire any right, title or interest in or to the use of the name "Comcast," the Comcast service marks, or in or to any trademark or service mark now or hereafter owned by or authorized to Comcast or any affiliate thereof (the "Comcast Marks"). Referral Representative shall not use the Comcast Marks in its business, trade or corporate name without the express written consent of Comcast. The provisions of this Section shall survive the expiration or termination of this Agreement.
- 8) Confidentiality.
- a) Confidential Information shall mean all business and technical information of a party which is non-public, confidential or proprietary. Confidential Information may be written, oral, expressed in electronic media or otherwise disclosed, and may be tangible or intangible. Each party to this Agreement will hold in confidence and not disclose to others any Confidential Information of the other party without the prior written consent of a duly authorized representative of the disclosing party. Confidential Information disclosed under this Agreement will be used only by the receiving party to perform its obligations hereunder. The parties agree that during and after the term of this Agreement, neither party receiving Confidential Information hereunder ("Receiving Party") nor any person, firm, corporation or other entity affiliated with, owned in whole or in part by, employed by or otherwise connected with the Receiving Party, shall directly or indirectly, without the express written consent of the Party disclosing Confidential Information ("Disclosing Party"), divulge, use, sell, exchange, furnish, give away, or transfer in any way any Confidential Information (as hereinafter defined) of the Disclosing Party. The provisions of this Section shall survive the expiration or termination of this Agreement.
- b) The obligations of confidentiality contained in this Section shall not apply to any information that: (a) was already known to the receiving party, other than under any obligation of confidentiality, at the time of disclosure by the other party; (b) was or becomes generally available to the public or otherwise part of the public domain other than through any act or omission of the receiving party in breach of this Agreement; (c) was disclosed to the receiving party, other than under an obligation of confidentiality, by a third party who had no obligation to the other party not to disclose such information to others; (d) is independently developed by the receiving party; or (e) is required to be disclosed under operation of law or governmental process. In the event either party is required to disclose the other's Confidential Information under operation of law or government process, such party shall provide the disclosing party with reasonable advance notice prior to such disclosure.
- 9) Personally Identifiable Information. Notwithstanding anything in this Agreement to the contrary, Referral Representative hereby acknowledges that personally identifiable information ("PII") relating to Prospects of the Service is subject to the subscriber privacy protections set forth in Section 631 of the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Section 551). To the extent that Comcast discloses any such personally identifiable information (PII) to Referral Representative, it does so in recognition of the services being provided by Referral Representative hereunder and in furtherance of Comcast's legitimate business activities related to such services. Referral Representative hereby agrees that it shall use such information solely for the purposes of this Agreement, and restrict disclosure of PII to those employees with a need to know and shall not further disclose such information to any third party. Referral Representative shall not use PII of any Prospect for any other purposes, including without limitation, to market Referral Representative's products and services, unless first approved in writing by such Prospect. Referral Representative hereby acknowledges that the breach by Referral Representative of any of its obligations under this Section cannot be reasonably or adequately compensated in damages in any action at law and that a breach of this provision by Referral Representative will cause Comcast irreparable harm. Referral Representative agrees that in the event of a breach or threatened breach of this provision, Comcast shall be entitled to injunctive and other equitable relief. The provisions of this Section shall survive the expiration or termination of this

Agreement.

- 10) Interference With Contract. Referral Representative, its affiliates and subsidiaries, and their respective employees and agents, hereby agree that they shall not intentionally induce, influence or suggest that any Prospect purchase, contract for, or switch to any non-Comcast service which would replace Service while such Customer is under contract with Comcast. This requirement shall exist for the term of the Agreement plus one (1) year. In no event shall Referral Representative use Confidential Information of Comcast at any time during or after the term hereof, for any of the foregoing described prohibited activities. Comcast shall have the right to enforce the terms of this Agreement, by obtaining an injunction or specific performance from any court of competent jurisdiction. The remedies set forth herein are cumulative and are in addition to, and not in limitation of, other remedies available at law or in equity. None of the remedies specified in this Agreement for any default or breach of this Agreement shall be exclusive. The provisions and remedies of this Section shall survive the expiration or termination of this Agreement.
- 11) Term, Termination, Effect of Termination.
  - a) This Agreement shall be effective as of the Effective Date and, unless terminated sooner in accordance with its terms, shall continue for a period of twelve (12) months ("Initial Term"). Thereafter, this Agreement shall continue on a month-to-month basis, unless and until either party provides the other Party with written notice of its intent not to renew at least thirty (30) days prior to the requested date of termination.
  - b) Either party may, at its election, terminate this Agreement, immediately if an order by any court or governmental authority with proper jurisdiction deems the activities of either party to be in conflict with an applicable law, rule or regulation, or if Comcast loses any authorization, franchise or permit necessary to provide the Services. Either party may, at its election, terminate this Agreement if material breach by the other party occurs, and such material breach continues uncured for a period of thirty (30) days after written notice from the non-breaching party.
  - c) Notwithstanding anything to the contrary herein, either party may at any time with or without cause or for convenience, terminate this Agreement by providing at least thirty (30) days prior written notice of such intent to the other party.
- 12) Indemnification. Each party shall indemnify, defend and hold the other party and its parents, affiliates and subsidiaries, and its and their directors, officers, employees, agents and/or assignees harmless against any liability from any claims, actions, causes of actions or demands arising out of (i) the conduct of the indemnifying party's business, including without limitation, with respect to any disputes between customer(s); and (ii) the indemnifying party's breach or violation of any representation, warranty, covenant or any other terms of this Agreement
- 13) Limitation of Liability. EXCEPT WITH RESPECT TO INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY EXEMPLARY, PUNITIVE, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR OTHER SPECIAL DAMAGES TO THE OTHER PARTY INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUES OR GOODWILL, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE OR OTHERWISE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THIS LIMITATION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.
- 14) Representations and Warranties. Both parties represent and warrant that (i) the execution, delivery and/or performance of this Agreement will not knowingly conflict with or result in any breach of any

provision of the charter, by-laws or other governing instruments of the party or any material agreement, contract or legally binding commitment or arrangement to which either party is a party; (ii) to its knowledge, each party is not subject to any limitation or restriction that would prohibit, restrict or impede the performance of its obligations under this Agreement; and (iii) both parties shall materially comply with all laws, rules and regulations applicable to its business and its performance of its duties hereunder

15) Miscellaneous.

- a) This Agreement shall at all times be subject to (i) changes or modifications to comply with, and (ii) any necessary approvals of, local state and federal regulatory agencies having jurisdiction over the provision of the Services in the Territory.
- b) This Agreement shall be interpreted under and governed by the laws of the Commonwealth of Pennsylvania, without regard to conflict of laws principles.
- c) No provision (or part thereof) of this Agreement which shall be declared invalid or unenforceable by a final non-appeasable ruling by a court or agency of competent jurisdiction shall in any way invalidate any other provision of this Agreement, all of which shall continue in full force and effect.
- d) The rights of Comcast and Referral Representative hereunder are cumulative, and no exercise or enforcement by either party hereto of any right or remedy hereunder shall preclude the exercise or enforcement by such party of any right or remedy hereunder or any right or remedy to which it is entitled by law. Neither Comcast nor Referral Representative shall be deemed to have waived any of its rights under the Agreement by virtue of any failure or refusal by that party to exercise any right under the Agreement or to require full compliance by the other party with its obligations under the Agreement.
- e) Neither Comcast nor Referral Representative shall be liable for loss or damage or be deemed to be in breach of this Agreement if its failure to perform its obligations results from acts of God, fires, strikes, embargoes, war, insurrection, riot, and other causes beyond the reasonable control of the party. Any delay resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable.
- f) Referral Representative agrees that it shall not at any time during the term of this Agreement or any renewal hereof, directly or indirectly, make, publish or otherwise communicate through any medium any deleterious or disparaging remarks concerning Comcast, Comcast's Marks (as defined in Section 7 hereof), Comcast's customers, Prospects or any product or service offered or provided by Comcast or the cable industry generally. Referral Representative acknowledges and agrees that Comcast shall be entitled to injunctive and other equitable relief in the event of a breach or threatened breach of the foregoing described non-disparagement obligations. For purposes of this Section 15(f), references to Comcast, shall include Comcast, its parents, subsidiaries, affiliates and their respective officers, directors and employees.
- g) The exhibits and schedules to this Agreement are a part of this Agreement, which constitutes the entire agreement of the parties, and there are no other oral or written understandings or agreements between Comcast and Referral Representative relating to the subject matter hereof. All prior or contemporaneous agreements, proposals, understanding and communications between Comcast and Referral Representative regarding the subject matter hereof, whether oral or written, are superseded by this Agreement.
- h) Referral Representative may not assign or otherwise transfer this Agreement (including by

merger or operation of law) without the prior written approval of Comcast, which consent shall not be unreasonably withheld. Subject to the foregoing, this Agreement shall be binding upon the parties hereto and their respective successors and assigns.

- i) The following provisions shall survive the expiration and termination of this Agreement: Sections 7, 8, 9, 10 and 12 and 13, and such other sections, schedules or exhibits hereto, that by their terms, may reasonably be expected to survive such expiration or termination.
- j) This Agreement may not be modified or amended except by a written instrument executed by both parties.
- k) All notices required to be given under this Agreement must be given in writing and delivered either by hand delivery, by certified mail, return receipt requested, postage pre-paid, or by Federal Express or other recognized overnight delivery service, all delivery charges pre-paid, and addressed to the parties' addresses referenced here:

Comcast Cable Communications, LLC  
One Comcast Center, 50<sup>th</sup> FL  
1701 JFK Blvd.  
Philadelphia, PA 19103  
Attn: Cable Law Department - Operations

By clicking the "I Agree" button below, you are accepting this Referral Agreement with Comcast.