



AGENCY REFERRAL AGREEMENT

This Referral Agreement (“Agreement”) is effective from the last signature date set forth below (“Effective Date”) and is entered into by and between Top Digital Agency Limited, (company number 642562) incorporated under the laws of Ireland whose registered office is at Ground Floor, 71 Lower Baggot Street, Dublin, D02 P593 Ireland, further in the text referred to as the “**Company**” and

(Agency name/address / VAT number), further in the text referred to as the “**Agency**”, collectively “the **Parties.**”

BACKGROUND

(A) The Company has been approached by a third-party company (the “**RFP Provider**”) to help RFP Provider find a digital agency to provide certain digital services.

(B) **The Agency** is interested in pitching to RFP Provider to provide such Services and related actions; and

(C) **The Company** will enable the Agency to pitch to the RFP Provider on the condition that the Agency will pay a commission for any business won from the RFP Provider.

The Parties Agree on the following terms:

1. **Referral Arrangement.** Upon the Effective Date of this Agreement, Company shall provide the Agency with a referral to the RFP Provider and Agency will be entitled to pitch to the RFP Provider through the platform provided by the Company.



2. **Compensation.** For any referral through which Agency generates business, Agency shall pay to the Company a commission fee of 10% of all fees agreed to be paid to Agency for provided Services. For the purposes of this agreement, the agency is considered to have entered a contract with the RFP Provider at the time when they have agreed on the essential components of the contract, regardless of the form in which the contract itself is concluded.

3. **Payment Method.** Parties hereto agree that in case the Agency and the RFP provider agree on the terms, the payment in the respect of the Agency for the services provided shall be paid through the Company's account and the Company will manage the budget according to the Payment Schedule agreed between the RFP Provider and the Agency.

4. **Payment Schedule.** The RRP Provider and the Agency will agree on the terms of the provided services and payment schedule. The Company shall disburse the funds to the Agency as outlined in the payment schedule between the RFP Provider and the Agency after charging a commission fee of 10% of all fees agreed to be paid to the Agency for the services provided.

The Agency agrees to inform the Company of the payment schedule as soon as it is agreed with the RFP Provider. In addition to that, the Agency will inform the Company of the course of the digital service provision. The Agency agrees to base their invoice and due date on the agreed payment schedule.

5. **Term.** This Agreement is effective from the Effective Date and will continue for one (1) year unless terminated in accordance with this Agreement (the "Initial Term"). After the Initial Term, this Agreement shall be deemed renewed automatically each year for an additional one-year period (an "Automatic Renewal Term") unless the one of the parties sends to the other party notice of cancellation or non-renewal in written 30 days prior to the termination date.

Termination for Convenience. Either party may terminate this Agreement by giving thirty (30) days prior written notice to the other party.



Termination for Cause. A party shall be in “Default” and deemed to be a “Defaulting Party” under this Agreement upon the occurrence of any of the following events:

(A) a party materially breaches or fails to perform any of its material obligations hereunder, and fails to remedy such breach or failure within twenty (20) days from the receipt of written notice from the non-defaulting party requiring such party to do so; or

(B) (i) a party seeks appointment of a receiver, trustee or custodian for all or a substantial portion of its assets, or admits in writing its inability to pay its debts as they become due or makes a general assignment for the benefit of creditors; (ii) a proceeding is commenced by or against a party seeking to have an order for relief entered on its behalf or against it as debtor or to adjudicate it bankrupt or insolvent, or seeking reorganization, liquidation or dissolution of it or its debts under bankruptcy or similar laws, and such proceeding is not dismissed within thirty (30) days or results in the entry of an order for relief against it which is not fully stayed within seven (7) days after entry thereof; (iii) a party ceases to do business or otherwise terminates its business operations; or (iv) a party fails to promptly secure or renew any material license, registration, permit, authorization or approval for the conduct of its business in the manner contemplated by this Agreement, or if any such license, registration, permit, authorization or approval is revoked or suspended and not reinstated within thirty (30) days.

Upon any party being in default under this Agreement, the other party may give written notice of termination of this Agreement to the Defaulting Party and upon service of such notice this Agreement shall terminate, provided that such termination shall not affect any claim any party has against any other for any preceding breach of any of the terms of this Agreement.

Effect of Termination. The provisions of this Agreement that by their context are intended to survive the expiration or termination of this Agreement will survive the expiration or termination of this Agreement,



including, without limitation, Articles 7-17. Upon the expiration or termination of this Agreement, each party shall cease using the other's Proprietary Information and return all copies thereof to the owner thereof within ten (10) days from the date of request.

Notice of termination, cancellation or non-renewal shall be sent by email to:

To the Company: email address connect@topdigital.agency

To the Agency: email address used for registration on Company's platform

6. **No Partnership, No Agency.** Nothing in this Agreement is intended to create any partnership or joint venture between the Parties.

7. **Confidentiality and non-disclosure.** All information provided by the Company will be treated with the utmost discretion and confidentiality and shall not be disclosed to any third party without prior consent and used for any other purpose than referring clients and generating business in accordance with the terms and conditions as set out in this Agreement unless disclosure is ordered by law or by court order.

The Agency agrees that it shall treat confidentially the terms and conditions of this Agreement, all information provided by each Party to the other regarding its business and operations.

The Agency hereby acknowledges and agrees that they may access non-public Confidential Information (as hereinafter defined) and may also possess Trade Secret Information (as hereinafter defined) (collectively the "Proprietary Information") regarding Company's business operations and development.

Confidential Information refers to any information which is confidential and commercially valuable to the Company. "Trade Secret Information" shall be defined specifically as any formula, process, method, pattern, design or other information that is not known or reasonably ascertainable by the public, consumers, or competitors through which, and because of such secrecy, an economic or commercial advantage can be achieved.

Confidential Information shall not mean any information which:



- a) is known or available to the public at the time of disclosure or became known or available after disclosure through no fault of the Agency;
- b) is already known, through legal means, to the Agency;
- c) is given by the Company to third parties, other than the Agency, without any restrictions;
- d) is given to the Agency by any third party who legally had the Confidential Information and the right to disclose it; or
- e) is developed independently by the Agency, and the Agency can show such independent development.

Agency hereby agrees it shall:

- a) Not disclose the Proprietary Information via any unauthorized means to any third parties;
- b) Not disclose the Confidential Information via any unauthorized means to any third parties;
- c) Not disclose the Trade Secret Information forever, or for as long as such information remains a trade secret under applicable law, whichever occurs first to any third party at any time;
- d) Not use the Confidential Information or the Trade Secret Information for any purpose except those contemplated herein or expressly authorized by the Company.

8. Competition

During the course of the Agreement and for a period of one year the Agency agrees to refrain from engaging, directly or indirectly, in a business cooperation or employment in any capacity with previous, prospective or current clients of the Company introduced to the Agency without the prior consent of the Company. This includes a company belonging to the client or a company owned by the client or immediate family, or people close to the client.

Parties hereto agree the term "*Prospective Client*" meaning an enterprise which is not a Client but with whom the Company was in active business discussions or negotiations in the preceding two months.

9. Non-solicitation and publicity



Neither the Company nor the Agency will solicit or market in any way, any products or services of the other Party other than the services related to facilitating referrals to Clients. In addition, neither the Company nor the Agency will sell or otherwise distribute to a third party a list of Clients gained by way of this agreement.

Neither Party shall use the other Party's trademarks, trade names, or images in connection with the activities under this Agreement without prior approval. This applies to all use including the use on the web, in print, or in any other media. Once approved, similar use in the same context and format will not require further approval. If this Agreement terminates for any reason, each Party shall immediately discontinue using any of the other Party's trademarks, trade names, or images.

10. Obligations of the Parties. It is specifically agreed that the Parties' responsibilities under this Agreement are limited to the terms of this Agreement and neither Party shall have any other responsibilities or obligations.

11. Warrants. Each Party represents and warrants that it has the full right and power to enter into this Agreement and that it is fully ready, willing, and able to perform all its obligations hereunder. Each Party further warrants that it has obtained or will obtain all necessary clearances, permissions, and/or releases as provided above.

12. Indemnity. Each Party shall indemnify the other against any and all claims, damages, liabilities, losses, costs, and expenses (including reasonable attorneys' fees) arising out of any facility or thing furnished by the indemnifying party in connection with the activities under this Agreement, or arising out of any acts done or words spoken by persons furnished therefore by it and/or any use of any material furnished therefore by it, or arising out of or caused by its breach of any warranty or agreement contained in this Agreement. Each Party shall provide the other Party with prompt written notice of any such claims of which the first Party is aware, and the Parties shall cooperate in the defence and resolution of such claims.

13. Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY DAMAGES RESULTING FROM ACTIONS TAKEN BY ANY PART OF THIS



AGREEMENT SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFIT OR LOST BUSINESS, COSTS OF DELAY OR FAILURE OF DELIVERY, WHICH IS NOT RELATED TO OR THE DIRECT RESULT OF A PARTY'S GROSS NEGLIGENCE OR AN INTENTIONAL BREACH. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR AN AMOUNT GREATER THAN THE AGGREGATE AMOUNTS INVOICED TO THE RFP PROVIDER DURING THE PRECEDING 12 MONTHS. THE FORGOING LIMITATIONS OF LIABILITY WILL NOT APPLY TO EACH PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS, NON-COMPLIANCE WITH LAWS OR OTHER GOVERNMENT REQUIREMENTS OR IN CASES OF ILLEGAL ACTIONS OR ACTS, FRAUD, THEFT OR WILLFUL MISCONDUCT BY EITHER PARTY.

14. Disclaimer of Warranties. Company shall refer potential clients/customers as requested by the Agency. COMPANY DOES NOT REPRESENT OR WARRANT THAT SUCH REFERRALS WILL CREATE ANY ADDITIONAL PROFITS, SALES, EXPOSURE, BRAND RECOGNITION, OR THE LIKE. COMPANY HAS NO RESPONSIBILITY TO AGENCY IF THE REFERRALS DO NOT LEAD TO AGENCY'S DESIRED RESULT(S).

15. Severability. In the event any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, that part shall be severed from the remainder of the Agreement and all other provisions should continue in full force and effect as valid and enforceable.

16. Waiver of Contractual Rights. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

17. Entire Agreement. This Agreement constitutes the entire understanding between the Parties hereto and no modification or amendment thereof will bind either Party unless made in writing and signed by persons authorized to bind both Parties to the Agreement.

18. Governing Law. This Agreement shall be governed by the laws of the Republic of Ireland.



19. Counterparts. This Agreement may be executed in counterparts.

(Signature Page Follows)



The Parties agree to the terms and conditions set forth above as demonstrated by their signatures as follows:

Top Digital Agency Limited

“COMPANY”

Signed: _____

A handwritten signature in black ink, appearing to read 'Lehadly Sani-Agatha', is written over a horizontal line.

By: _____ Lehadly Sani-Agatha, COO _____

Date: _____ 23.03.2022 _____

_____ (Agency name)

“AGENCY”

Signed: _____

By: _____

Date: _____

(Signature Page to Referral Agreement)