

Referral Agreement

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1.0 RELEVANT PARTIES

- 1.1 This Agreement is for the referral of Octavia Information System's Services
- 1.2 This Agreement is made between:
- 1.3 Octavia Information Systems Ltd (Company number 3496224) WTG Building, 90 Union St, London, SE1 0NW herein referred to as "Octavia"
- And
- 1.4 _____ herein referred to as "the Referrer"

2.0 DEFINITIONS

- 2.1 Prospect: means an organisation or individual identified by the Referrer that is subsequently introduced to Octavia.
- 2.2 Customer: means any organisation introduced to Octavia by the Referrer that enters into a contract to make a purchase from Octavia. This will be the organisation to whom services will be delivered and/or Invoices will be addressed.
- 2.3 Consultant(s): means any technical staff of Octavia assigned to provide services to the Customer
- 2.4 Account: means the confidential file where the details of the Customer are held.
- 2.5 Invoice: means the invoice raised by Octavia for the provision of services.



3.0 REFERRER'S OBLIGATIONS

3.1 The Referrer shall at all times observe and perform the Terms and Conditions of this Agreement and, in particular, the Referrer shall:

- 3.1.1 provide Octavia with qualified Prospects, whereby the Referrer has clarified the Prospects:
 - 3.1.1.1 Organisation name
 - 3.1.1.2 Contact name
 - 3.1.1.3 Contact position
 - 3.1.1.4 Telephone number and / or email address
- 3.1.2 accept that Octavia retain the right to reject a Prospect. Reasons for rejecting a Prospect may include but not be limited to the location of the Customer's site, the state of, or technical architecture of the System in question or poor credit rating / financial stability;
- 3.1.3 accept that if a Prospect is introduced to Octavia when Octavia have had prior contact with that Prospect in, then commission will not be payable to the Referrer;
- 3.1.4 not make any promises or representations, or give any warranties, guarantees or indemnities in respect of Octavia's Services except such as are contained in the full Terms and Conditions those Services;
- 3.1.5 only use Octavia trade marks and trade names in the registered form or style unless permitted in writing by Octavia and shall not use such trade marks or trade names in connection with any other products or services or as part of the corporate or any trade name or any Internet domain name of the Referrer;
- 3.1.6 ensure that its website and any intranet only contain Octavia branding in accordance with 3.1.5 above and do not contain any material that would adversely affect Octavia's reputation;
- 3.1.7 not claim or represent itself as having any authority whatsoever to agree any changes of any kind to Octavia's Terms and Conditions
- 3.1.8 not duplicate or reproduce in any way any Octavia copyright material without the prior written consent of Octavia;
- 3.1.9 will inform Octavia immediately of any complaints from a Prospect or Customers introduced by the Referrer in order for Octavia to address issue as it sees fit;
- 3.1.10 accept that commission will only be paid once a Prospect becomes a Customer having signed a booking form or contract with Octavia



4.0 OCTAVIA'S OBLIGATIONS

- 4.1 Octavia shall at all times observe and perform the Terms and Conditions of this agreement and, in particular, Octavia shall: -
- 4.1.1 Pay the Referrer commission as defined in Schedule 2
 - 4.1.2 qualify and pursue all Prospects received from the Referrer in a timely and professional manner
 - 4.1.3 maintain regular contact with Referrers in order to provide assistance and training along with sales and marketing material in order for the Referrer to promote and market Octavia's Services;
 - 4.1.4 maintain and make available a list of existing Customers in order that the Referrer does not direct marketing sales and activity at existing Customers;
 - 4.1.5 make available copies of the contracts for Customer 's introduced by the Referrer excluding any information regarding the Customer or its System that may be deemed sensitive or confidential;
 - 4.1.6 not prioritise Prospects or Customers introduced by 3rd party Referrers in favour of Prospects or Customers obtained from other sources.
 - 4.1.7 shall issue the Referrer a commission statements detailing the revenue obtained by Octavia from the Customer(s) introduced by the Referrer and the commission due as a result of that revenue (as defined in Schedule 2 of this document)
 - 4.1.8 never actively solicit business that would encroach upon the Referrer's core business activity. There may be circumstances when this is unavoidable. However by requiring the Referrer to complete Schedule 1 below Octavia will endeavour to avoid such conflict of interest as far as is practically possible

5.0 INTELLECTUAL PROPERTY

- 5.1 The Referrer shall not acquire any Intellectual Property rights in respect of services delivered by Octavia.

6.0 CONFIDENTIALITY

- 6.1 The Referrer will not disclose and will not use for any purpose other than the marketing and resale of Octavia's Services in accordance with this Agreement any confidential information of Octavia and will take all reasonable steps to prevent disclosure or unauthorised use by its employees, agents and sub-contractors.
- 6.2 All Customer information shall be deemed as confidential and all Intellectual Property Rights in such information shall be owned by the Customer / Octavia accordingly. The Referrer will have no rights of access to the Customer's Account or any other files and documents containing confidential information in respect of the Customer.
- 6.3 This Clause 6 regarding confidentiality shall continue in force after and despite the expiry or termination of this Agreement, regardless of the reason for termination.



7.0 TERM OF AGREEMENT

- 7.1 Following its commencement this Agreement will remain in place in perpetuity unless terminated by either party stated in writing; or as a result of a material breach by either party whereby formal notice of the breach should be served to the other party as per Clause 12 below.
- 7.2 On termination of this Agreement (except where the termination is due to a material breach of this Agreement) Octavia commit to paying commission (as per the schedule below) on any Invoices already sent to the customer and on any invoices sent to the Customer for a period of 3 months after the termination of the Agreement
- 7.3 Termination of this Agreement by either party shall not give the other party any right to compensation, damages, loss of profits or prospective profits of any kind or nature whatsoever, and in no circumstances shall the Referrer acquire against Octavia any goodwill in respect of its appointment as Referrer or in respect of the Services or their promotion or sale, or otherwise under or in respect of this Agreement.
- 7.4 This Agreement may become dormant if the commission period for which commission is payable to the Referrer expires for all Customers introduced by the Referrer. In such circumstances the Agreement will remain in place and become reactivated if / when additional Customers are introduced by the Referrer.

8.0 REFERRER'S STATUS

- 8.1 This Agreement shall not constitute a joint venture or partnership between the parties and (other than expressly as provided in this Agreement) the Referrer shall not hold itself out as Octavia's agent.



9.0 WARRANTIES AND LIABILITY

- 9.1 Under no circumstances shall Octavia be held liable to the Referrer in any respect as a result of the services delivered to any Customers.
- 9.2 Notwithstanding anything to the contrary in this Agreement Octavia's liability to the Referrer for death or personal injury or fraud caused by the negligence of Octavia and its employees is not limited.

10.0 SOLICITATION

- 10.1 The Referrer will make no approach or offer relating to employment to a Consultant or any other employee of Octavia during the period of the Agreement.
- 10.2 For six months following the termination of the Agreement, the Referrer agrees not to engage any Consultant or employee of Octavia in any form of employment without the written consent of Octavia.
- 10.3 For six months following the termination of the Agreement, Octavia reserves the right to charge the Referrer if an Octavia Consultant or other employee is engaged in employment by the Referrer. It is agreed the Referrer shall pay an introductory fee to Octavia the equivalent of 40% of the annual remuneration package (including benefits and commission) of the Consultant or employee in question.

11.0 ENTIRE AGREEMENT

- 11.1 This Agreement represents the entire terms agreed between the parties in relation to its subject matter, and supersedes all previous contracts or arrangements (if any) between the parties relating to its subject matter.
- 11.2 This Agreement may be revised by Octavia from time to time. Any changes shall be effective upon the provision of 14 days notification to the Referrer.
- 11.3 Changes may include alterations to the timing of payments or structure of commission payment for future Customers introduced by the Referrer.
- 11.4 All commission for existing Customers introduced by the Referrer will be honoured at the rate specified at the time of the Customer signing a contract with Octavia.
- 11.5 In the event of any inconsistency between this Agreement (excluding the Schedules) and any of the Schedules or attachments, the provisions of this Agreement (excluding the Schedule(s)) shall prevail.
- 11.6 If any provision of this Agreement shall be determined by any court or competent authority to be illegal, invalid and/or unenforceable then such determination shall not affect any other provision of this Agreement, all of which other provisions shall remain in full force and effect.
- 11.7 The Referrer may not assign the benefit of this Agreement without the prior written consent of Octavia.
- 11.8 A person who is not a party to this Agreement has no right to enforce any term of it under the Contracts (Rights of Third Parties) Act 1999 and the parties to this Agreement do not intend that any third party rights are created by this Agreement.



12.0 NOTICE

12.1 Any notice given under the Agreement by the Referrer to Octavia shall be provided in writing by post as set out below:

12.1.1 Postal address: Octavia Information Systems Ltd, WTG Building, 90 Union St, London SE1 0NW .

12.2 Any notice given under the Agreement by Octavia to the Referrer shall be provided to the Referrer in writing as set out herein and in accordance with the contact details for the Referrer held by Octavia.

12.3 The Referrer is required to notify Octavia of changes in its contact details should they change.

13.0 GOVERNING LAW

13.1 The Agreement shall be governed by and construed in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdiction of the English courts.

14.0 COMMENCEMENT OF REFERRAL AGREEMENT

14.1 The person who signs below must be authorised to do so on behalf of the Referrer. The Referrer is hereby committing to abide by these Terms and Conditions for the Refer of Support Service.

Signed on behalf of Octavia:	
Name:	
Position:	
Date:	
Referrer (Business name):	
Signed on behalf of the Referrer:	
Name:	
Position:	
Date:	



Schedule 1 - Definition of the Referrer’s core business activities

The purpose of this schedule it to clarify the core business activities of the Referrer in order for Octavia to undertake all measures possible and practical to not actively solicit business from the Referrer.

Referrer’s organisation name: _____

Referrer’s address: _____

Representative of Referrer (name): _____

Representative of Referrer (signature): _____

Date of completion of this form: _____

Core Business activities of Referrer:	
Title	Description

If the core business activities stated above change or if a new service is added to the range of business activities undertaken by the Referrer, the Referrer is obliged to inform Octavia in order that it can note / take account of the changes



Schedule 2 - Commission and Payment Structure for the Referral of Services

Octavia will pay commission to the Referrer of 5% of Gross Profit (GP) on Revenue obtained from Customers introduced by the Referrer for a period of 12 months from the point of the first Invoice being sent by Octavia to The Customer

GP is calculated by taking the value of each invoice (excluding VAT) raised minus the direct 3rd party costs of sale associated with the invoice in question (such as equipment purchases or 3rd party services being resold Octavia)

For the removal of doubt, GP on all labour and services provided directly by Octavia employees is calculated at 100% of revenue.

A monthly commission statement will be issued via email to the Referrer for any months where Octavia issue an Invoice to a Customer that has been referred by The Referrer (for the removal of doubt, Octavia will not issue commission statements for months where no commission is payable). The commission statement will detail the invoices raised / revenue obtained by Octavia from Customers introduced by the Referrer and the commission achieved as a result.

Octavia reserve the right to withhold commission payments if either of the following conditions arise:

- a) A credit Note has to be issued to the Customer in relation to an Invoice for which the Referrer has already been paid commission. In this case, the Commission paid will be adjusted to allow for the value of the credit note.
- b) The Customer fails to pay any Invoice by it's due date. In this case, Octavia will not make any further commission payments until the outstanding Invoice is paid.

Upon receipt of the commission statement from Octavia, the Referrer must raise an invoice to Octavia which will be paid by Octavia 30 days from receipt.

