



Partner Referral Agreement - <Your first name> <Your last name>

Referral Partner Information

Company Name: <Your company name>

Address: <Your company address>

Primary Phone: <Your phone number>

Primary Email: <Your email>

Referral Partner Agreement

This Referral Agreement (“Agreement”), effective as of **<date of submission>** is entered into by and between KUWARE, INC, a Texas Corporation (“KUWARE”), and **<Your company name>**, an/a **<your organization type>** (“Referral Partner”).

WHEREAS, Referral Partner wishes to refer sales leads to **KUWARE**, and **KUWARE** wishes to compensate Referral Partner for certain sales leads that are accepted by **KUWARE** and which, among other things, result in payments from new customers to **KUWARE’s** Marketing Services (the “Marketing Services”), pursuant to the terms and subject to the conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lead Referral and Acceptance

1.1 Lead Referral. Referral Partner shall refer sales leads (“Proposed Leads”) to **KUWARE** by submitting the required information. Following submission of any Proposed Lead, Referral Partner may be asked by **KUWARE** to supply additional information and/or assist **KUWARE** in making contact with the Proposed Lead by arranging an introduction, meeting, conference call, or other means of communication with the Proposed Lead.

1.2 Lead Acceptance. Within a reasonable period of time following each referral of a Proposed Lead, **KUWARE** shall review the Proposed Lead and provide Referral Partner with a notification of its acceptance, qualification, or rejection of the Proposed Lead. **KUWARE** will be under no obligation to accept any Proposed Lead and may reject or decline to accept any Proposed Lead for any commercially reasonable reason as determined by **KUWARE** in its discretion, including without limitation, that:

1. the Proposed Lead was an existing customer of **KUWARE** at the time of the referral by Referral Partner;
2. **KUWARE** was already involved in discussions relating to services to the Proposed Lead at the time of the referral to **KUWARE**;

3. the Proposed Lead had previously been referred to **KUWARE** by Referral Partner or by any other third party;
4. the Proposed Lead (a) does not meet **KUWARE's** credit requirements, (b) is on a list of restricted or prohibited parties issued by the government of the United States or any other jurisdiction, or (c) is located in a country that is subject to a United States trade embargo or that is deemed a terrorist-supporting country by the United States Government; or
5. the Proposed Lead is located in an area in which **KUWARE** has an exclusive arrangement for the sale of services or which **KUWARE** is otherwise prohibited by agreement or law from accepting.

2. Referral Fees.

2.1 Fees. A Referral Fee payment is available for each accepted Deal that results in a fully executed **KUWARE** Contract ("Win"). When an Accepted Deal starts a **KUWARE** service within 90 days of the Proposed Lead being Accepted by **KUWARE** pursuant to Section 2.1, **KUWARE** will pay to Referral Partner a Referral Fee equal to:

- **10%** of the Service fees collected for a period of up to one year

2.3 Eligibility. Subscription renewals, support, implementation, training or other professional services are not eligible for referral fees hereunder and shall not be included in the calculation of Referral Fees.

2.4 Fee Payment. Upon **KUWARE's** determination that an accepted Lead has resulted in a Win, **KUWARE** will contact you to request your W-9. Your W-9 must be submitted and received by **KUWARE**, or your Referral Fee will be held until **KUWARE** receives your completed W-9. **KUWARE** will remit the applicable Referral Fee to Referral Partner within 60 days of collecting it from the Accepted Lead.

2.5 Taxes. Referral Fees are paid in United States dollars and are subject to all applicable governmental regulations and rulings, including the withholding of any taxes required by law. Referral Partner is solely responsible for payment of any and all taxes imposed or incurred in connection with any Referral Fees described in Section 2.1 above. Referral Partner agrees to complete and provide any and all tax documentation (including an IRS Form W-9) reasonably requested by **KUWARE** to comply with any tax reporting obligations of any jurisdiction. Referral Partner understands and acknowledges that **KUWARE** may issue a Form 1099 in the event that Referral Fees paid

3. Term and Termination; Post-termination Fees. This Agreement shall automatically terminate in the event that Referral Partner has not submitted a Proposed Lead for twelve (12) consecutive months. Either party may terminate this Agreement upon written notice to the other at any time, for any reason or no reason. Unless the termination is for breach, it will not affect **KUWARE's** obligation to pay Referral Fees in connection with Accepted Leads that were accepted prior to the termination date.

4. Confidentiality. All non-public, confidential or proprietary information of **KUWARE**, including, but not limited to, specifications, ideas or materials of a technical or creative nature, such as research and development results, designs and specifications, computer source and object code, patent applications, and other materials and concepts relating to the Platform, processes, technology or other intellectual property rights, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by or on behalf of **KUWARE** to Referral Partner, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with this Agreement, as well as the terms and conditions and the existence of this Agreement (collectively, "Proprietary Information") shall be confidential, used by Referral Partner for the sole purpose of performing Referral's Partners duties under this Agreement, and may not be disclosed or copied by

Referral Partner unless authorized by **KUWARE** in writing. All Proprietary Information is and shall remain the sole property of **KUWARE** and shall be returned by Referral Partner to **KUWARE** upon the termination of this Agreement, or earlier if requested by **KUWARE**. Referral Partner acknowledges and agrees that any breach of this Section 5 by Referral Partner will cause irreparable and continuing harm to **KUWARE** for which money damages would be insufficient, and **KUWARE** shall be entitled to injunctive relief, a decree for specific performance, and all other relief as may be proper without the necessity of proving damages or posting a bond. This section shall not apply to information that: (a) was in the public domain at or subsequent to the time the information was communicated to Referral Partner by **KUWARE** through no fault of Referral Partner; (b) was rightfully in Referral Partner's possession free of any obligation of confidence at or subsequent to the time the information was communicated to Referral Partner by **KUWARE**; or (c) was independently developed by Referral Partner without the use of, or reference to, such information, as established by Referral Partner's written records. A disclosure of any information by Referral Partner (a) in response to a valid order by a court or other governmental body or (b) as otherwise required by law will not be a breach of this Section 5 or a waiver of confidentiality for other purposes; provided, that Referral Partner provides prompt prior written notice thereof to **KUWARE** to enable **KUWARE** to seek a protective order or otherwise prevent the disclosure.

5. Intellectual Property.

5.1 Service Marks and Logos. Referral Partner shall not use (and has not used), directly or indirectly, in whole or in part, in connection with this Agreement or as part of its corporate, business, or personal name, any signature, monogram, logo, trademark, service mark, or trade name (a "Mark") that is now or may hereafter be owned, licensed or used by **KUWARE** (a "**KUWARE** Mark"), except in the manner and to the extent approved in advance in writing by **KUWARE**, which such approval **KUWARE** may withdraw at any time for any reason. Referral Partner shall discontinue any approved use of a **KUWARE** Mark immediately upon termination or expiration of this Agreement, and thereafter shall not use any Mark which, in the reasonable judgment of **KUWARE**, so nearly resembles any **KUWARE** Mark that confusion or uncertainty by a third party may reasonably result therefrom. Referral Partner hereby expressly disclaims any and all right, title, and interest in and to all **KUWARE** Marks, whether or not used by Referral Partner. All uses of any **KUWARE** Mark shall inure solely to the benefit of **KUWARE**.

6. Independent Contractor. Referral Partner is an independent contractor of **KUWARE**, and this Agreement shall not be construed to create any association, partnership, joint venture, employee, or agency relationship between Referral Partner and **KUWARE** for any purpose. Referral Partner has no authority (and shall not hold itself out as having authority) to bind **KUWARE**, and Referral Partner shall not make any agreements or representations on **KUWARE's** behalf without **KUWARE's** prior written consent. Without limiting the above, Referral Partner will not be eligible to participate in any vacation, group medical or life insurance, disability, profit sharing or retirement benefits or any other fringe benefits or benefit plans offered by **KUWARE** to its employees, and **KUWARE** will not be responsible for withholding or paying any income, payroll, social security or other federal, state or local taxes, making any insurance contributions, including unemployment or disability, or obtaining worker's compensation insurance on Referral Partner's behalf. Referral Partner shall be responsible for, and shall indemnify **KUWARE** for, from, and against, all such taxes or contributions, including penalties and interest. Any persons employed or engaged by Referral Partner in connection with the performance of Referral Partner's obligations hereunder shall be Referral Partner's employees or contractors and Referral Partner shall be fully responsible for them and indemnify **KUWARE** against any claims made by or on behalf of any such employees or contractors.

7. Representations and Warranties.

7.1 Each party hereto represents and warrants that it has full authority to enter into this Agreement and that such action has been duly authorized in accordance with such party's articles of incorporation, by-laws, or other applicable organizational documents and procedures.

7.2 Each party further represents and warrants that the execution, delivery, and performance of this Agreement will not conflict with, result in a breach of, or cause a default under its articles of incorporation, by-laws, partnership or joint venture agreements, or any agreement or instrument to which it is a party or by which it or any of its property is bound, nor will it conflict with or violate any statute, law, rule, regulation, order, decree, or judgment of any court or governmental authority which is binding upon it or its property.

7.3 The individuals executing this Agreement further represent and warrant that they have the full power and authority to bind their respective entities to the terms hereof and have been duly authorized to do so in accordance with such entities' corporate or other organizational documents and procedures.

8. General.

8.1 Reserved Rights and General Disclaimer. **KUWARE** reserves the right: (i) to solicit, contact, and engage any business client, whether or not referred by you and with no obligation to you whatsoever, so long as such business client does not constitute a Lead; and (ii) to engage with other client referral lead providers on a nonexclusive basis. To the maximum extent permitted by applicable law, **KUWARE** reserves the right to change or cancel this program at any time, at its sole discretion. Participants agree to abide by these rules and by the decisions of **KUWARE**, which are final, binding, and non-appealable, on all matters. **KUWARE** is not responsible for lost, misdirected, or delayed referrals.

8.2 Disclaimer of Warranties; Limitation of Liability. EXCEPT TO THE EXTENT EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, **KUWARE** MAKES NO REPRESENTATIONS OR WARRANTIES UNDER THIS AGREEMENT TO REFERRAL PARTNERS OR ITS LEADS AND EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITATION, **KUWARE** SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING: (I) THE AMOUNT OF REVENUE THAT REFERRAL PARTNER MAY RECEIVE UNDER OR IN CONNECTION WITH THIS AGREEMENT; AND (II) ANY ECONOMIC OR OTHER BENEFIT THAT REFERRAL PARTNER MIGHT OBTAIN THROUGH ITS PARTICIPATION IN THIS AGREEMENT. **KUWARE** WILL NOT BE LIABLE FOR LOST PROFITS, LOST REVENUE, LOST BUSINESS OPPORTUNITIES, OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.3 Notices. All notices, requests, consents, claims, demands, waivers, summons and other legal processes, and other similar types of communications hereunder (each, a "Notice") must be in writing and addressed to the relevant party at the address set forth on the first page of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this Section 8.2). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), certified or registered mail (in each case, return receipt requested, postage prepaid) or electronic mail (return receipt requested). A Notice is effective only (i) upon delivery and (ii) if the party giving the Notice has complied with the requirements of this Section 8.2.

8.4 Governing Law. If there is a dispute between Referral Partner and **KUWARE**, it will be governed by the laws of the **TEXAS**, without regard to the conflict of laws provisions of such State. Any legal suit, action or proceeding arising out of or relating to this Agreement must be instituted in the federal courts of the

United States of America or the courts of the State of **TEXAS**, in each case located in **TRAVIS**, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

8.5 Severability. If any provision of this Agreement is held by a court to be invalid or unenforceable, then such provision shall be construed, as nearly as possible, to reflect its intentions, with all other provisions remaining in full force and effect.

8.6 Amendments; Waivers. This Agreement, and each of the terms and provisions hereof, may only be amended, modified, waived or supplemented by an agreement in writing signed by each party. A party's failure to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless agreed to by that party in writing.

8.7 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

8.8 Assignment. Referral Partner may not assign any rights or obligations under this Agreement without **KUWARE's** prior written consent. This Agreement will inure to the benefit of and be binding upon each of the parties and each of their respective permitted successors and permitted assigns.

8.9 Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.

8.10 Survival. All terms of this Agreement which by their nature extend beyond its expiration or termination, including without limitation, the Proprietary Rights provisions hereunder, shall survive the termination of this Agreement.

In the event that **KUWARE** accepts a Proposed Lead (each referred to as an "Accepted Lead" hereunder), a **KUWARE** team member will facilitate communication with the Accepted Lead.

Acceptance of Agreement

Avi Kumar, CEO
KUWARE, Inc.

<your first name> <your last name>, <your title>
<your company name>

Signed on: <Date of acceptance>

Signed on: <Date of acceptance>