

REFERRAL AGREEMENT

NOTE - THIS DOCUMENT CREATES A BINDING CONTRACT. PLEASE READ CAREFULLY. ONCE YOU CLICK THE SUBMIT BUTTON DISPLAYED HEREWITH, THIS AGREEMENT, INCLUDING ALL OF ITS TERMS AND CONDITIONS, WILL BE LEGALLY BINDING UPON YOU PERSONALLY--IF YOU ARE ENTERING INTO THIS AGREEMENT ON YOUR BEHALF--OR UPON THE LEGAL ENTITY ON WHOSE BEHALF YOU ARE ACTING. PLEASE CAREFULLY READ THIS REFERRAL AGREEMENT BEFORE CLICKING "SUBMIT".

This Referral Agreement (“**Agreement**”) is made by and between GoFormz, Inc. (“**GoFormz**”), a Delaware corporation, and the Referral Partner (“**Referral Partner**”) is dated as of the date on which Referral Partner clicks the "Submit" button displayed herewith.

For good and valuable consideration and in consideration of the mutual covenants contained in this Agreement, GoFormz and Referral Partner agree as follows:

1. **Definitions.** The following terms used in this Agreement have the meaning set forth below:

1.1 “**Agreement**” has the meaning given in the preamble and includes all exhibits and attachments to this Agreement.

1.2 “**Confidential Information**” will mean all written or oral information, disclosed by GoFormz to Referral Partner, related to the operations of GoFormz or a third party that has been identified as confidential or that by the nature of the information or the circumstances surrounding disclosure ought reasonably to be treated as confidential. Without limiting the foregoing, any non- public information regarding or related to any Prospect or its current or prospective relationship with GoFormz will be considered GoFormz’s Confidential Information.

1.3 “**Customer**” will mean any third party, including individuals, governmental entities, business entities or other organizations, to which GoFormz provides the GoFormz Offerings pursuant to a Customer Agreement, as defined herein.

1.4 “**Customer Agreement**” will mean a written agreement between GoFormz and a Customer pursuant to which GoFormz performs and/or provides the GoFormz Offerings to or for such Customer.

1.5 “**GoFormz Offerings**” will mean the products and/or services of the organization.

1.6 “**Prospect**” will mean any potential third party customer that Referral Partner refers to GoFormz in accordance with this Agreement.

1.7 “**Referral Customer**” will mean any Prospect which enters into a Customer Agreement during the Term or Tail as a direct result of Referral Partner’s referral and promotional activities under this Agreement.

1.8 “**Tail**” will have the meaning given in Section 4.2.

1.9 “**Term**” This Agreement will be in effect for a period of one (1) year from the date the Referral Partner Signup Form was submitted unless earlier terminated in accordance with Section 11. It will thereafter automatically renew for successive one (1) year terms, unless either party provides written notice to the other of its intent not to renew at least ninety (90) days prior to the end of the then-current term.

1.10 “**Quarter**” will mean Feb 1 – April 30, May 1 –July 31, August 1 – October 31, and November 1 – January 31.

2. Approval

2.1 **Agreement subject to GoFormz Approval.** The effectiveness of this Agreement is subject to GoFormz's written approval of the Referral Partner's application for participation in the Referral Program ("Approval"). This Agreement shall commence on the date of such Approval. GoFormz reserves sole and exclusive discretion to accept or decline Referral Partner's application for any or for no reason. GoFormz may conduct screening measures of any sort in connection with Referral Partner's application.

3. Appointment and Relationship

3.1 **Appointment.** Subject to the terms and conditions of this Agreement, GoFormz hereby appoints Referral Partner as a non-exclusive “Referral Partner” for GoFormz Offerings. Referral Partner will identify potential Prospects to GoFormz by submitting such Prospects here: <https://www.goformz.com/partner-referral>. Within three (3) business days after receipt of such Prospect, GoFormz will notify Referral Partner of any Prospects which it has approved. If GoFormz fails to provide such notice, the Prospect will be deemed to have been rejected. Referral Partner will make introductions between Prospects and GoFormz, as mutually agreed. There are no minimum referral or other commitments under this Agreement.

3.2 **Independent Contractors.** Referral Partner and GoFormz are and will act at all times as independent contractors. Nothing contained in this Agreement will be construed or implied to create an agency, partnership or employer-and-employee relationship between them. Except as expressly set forth herein, at no time will either party make commitments or incur any charges or expenses for, or in the name of, the other party.

4. GoFormz Rights and Obligations

4.1 **Marketing Materials.** GoFormz may deliver to Referral Partner general information and marketing materials regarding the GoFormz Offerings (the "Marketing Materials"). Referral Partner acknowledges that GoFormz may, in its sole discretion, amend or modify the Marketing Materials from time to time, and Referral Partner agrees to use the most current version of the Marketing Materials. Referral Partner's use of the Marketing Materials shall be in compliance with the terms of Section 6.4 ("Trademarks"), below, and any additional usage guidelines designated by GoFormz as applicable to the Marketing Materials. Referral Partner will not

modify the Marketing Materials unless such modifications are expressly approved by GoFormz. Should GoFormz find objectionable any use of the Marketing Materials by Referral Partner, GoFormz shall have the right to revoke, with respect to the objectionable use, Referral Partner's right under this Section to use such Marketing Materials, and Referral Partner will immediately cease using the relevant Marketing Materials in the manner found objectionable by GoFormz.

4.2 GoFormz's Right of Contract Approval. GoFormz retains the right, in its sole and absolute discretion, to refuse to offer the GoFormz Offerings to any third party, including, without limitation, any Prospect. Notwithstanding any other provision of this Agreement, no Prospect will be deemed a Referral Customer hereunder unless and until (i) GoFormz has approved such Prospect; and (ii) such entity and GoFormz have executed a Customer Agreement within six (6) months of such entity being referred to GoFormz in writing by Referral Partner pursuant to this Agreement, including Section 2.1 (the "**Tail**"). Referral Partner acknowledges and agrees that the relationship between GoFormz and any Prospect or Customer, including the provision of GoFormz Offerings, will be governed solely by the terms of the applicable Customer Agreement. This Agreement imposes no obligation upon GoFormz under any agreement between Referral Partner and any third party (including Prospects and Customers).

5. Referral Partner Obligations

5.1 General Marketing Obligations. Referral Partner will, at its own expense, use reasonable efforts to promote and market the GoFormz Offerings to potential Prospects. In the event that any Prospect desires to obtain the GoFormz Offerings, Referral Partner will make GoFormz aware of such Prospect pursuant to Section 2.1.

5.2 Customer Contacts and Agreements. Upon GoFormz's request, Referral Partner will provide to such Prospect a price quote prepared by GoFormz in addition to GoFormz's then-current, applicable standard form(s) of Customer Agreement. GoFormz will have sole authority to determine the price quote and fees charged to Prospects for provision of the GoFormz Offerings. Referral Partner will have no authority to execute any agreement (including a Customer Agreement) on GoFormz's behalf, nor will Referral Partner undertake any negotiation with any Prospect regarding any term or provision set forth in a Customer Agreement. Referral Partner will promptly forward to GoFormz any Customer Agreement executed by the Prospect for GoFormz's review. In the event any such Prospect desires to amend or negotiate any terms in the then-current applicable standard form(s) of agreement as provided by GoFormz under this Agreement, Referral Partner and/or the Prospect will consult with GoFormz to determine an appropriate course of action.

5.3 No Authority to Bind GoFormz. In no event will Referral Partner make any commitments, representations or warranties on GoFormz's behalf, or purport to act as an agent or representative of GoFormz for any purpose.

5.4 Compliance. All marketing and promotional information provided or distributed by Referral Partner to any third party or through any media will strictly conform to such information as GoFormz may have provided to Referral Partner pursuant to Section 3.1, unless otherwise approved in advance in writing by GoFormz. Referral Partner will undertake all measures necessary to ensure that its marketing, lead generation, and/or referrals relating to the GoFormz Offerings comply in all respects with applicable laws and regulations, fair and ethical business practices, and generally recognized professional standards. Referral Partner will not make (i) any false or misleading representations about the GoFormz Offerings; or (ii) any representations, warranties or guarantees with respect to the GoFormz Offerings, GoFormz or any of GoFormz's obligations to any third party beyond those in GoFormz's documentation or marketing materials. Referral Partner acknowledges and agrees that GoFormz derives substantial value from the goodwill associated with the GoFormz Offerings.

6. Intellectual Property

6.1 No License. Referral Partner acknowledges and agrees that no license is granted under this Agreement to use or access the GoFormz Offerings, any of GoFormz's proprietary technologies embodied therein, or any data, information or other content provided thereby, except as otherwise provided in this Section 5.

6.2 Demonstration License. Subject to the terms and conditions of this Agreement, GoFormz hereby grants to Referral Partner a limited, non-exclusive, revocable, non-transferable right and license during the Term to use the GoFormz Offerings made available to Referral Partner solely for the non-production purposes of conducting demonstrations for potential Prospects.

6.3 Restrictions. Referral Partner acknowledges that the GoFormz Offerings and its structure and organization constitute valuable trade secrets of GoFormz and its suppliers. Except as expressly permitted in Section 5.2, Referral Partner agrees that Referral Partner shall not, and shall not permit any third party, to: (i) copy, reproduce, modify, adapt, alter, translate, or create derivative works from the GoFormz Offerings; (ii) distribute the GoFormz Offerings to any third party; (iii) allow a third party to access the GoFormz Offerings or transfer to a third party any of Referral Partner's rights under this Agreement, except as otherwise provided in this Agreement, or otherwise use the GoFormz Offerings for the benefit of a third party or to operate a service bureau; (iv) reverse engineer, decompile or disassemble the GoFormz Offerings; (v) interfere in any manner with the operation of the GoFormz Offerings; or (f) otherwise use the GoFormz Offerings except as expressly permitted hereunder.

6.4 Trademarks. Pursuant to the terms of this Agreement, including Section 3.1, GoFormz may supply to Referral Partner certain Marketing Materials bearing one or more of the trademarks and all related logos and designs, and other trademarks which GoFormz may adopt from time to time in connection with GoFormz Offerings (the "**Marks**"). GoFormz hereby grants Referral Partner a non-exclusive, non-transferable license to use the Marks in connection with the marketing and promotion of GoFormz Offerings to Prospects to the extent reasonably necessary to allow Referral Partner to exercise its rights under this Agreement. Any use of the Marks will be subject to the prior approval of GoFormz and all such uses will be in conformance with GoFormz's trademark usage guidelines, as such guidelines are made available to Referral Partner from time to time. Referral Partner acknowledges GoFormz's exclusive ownership of the Marks and agrees not to claim any right, title or interest in or to the Marks, or to apply for registration or register any of the Marks in any jurisdiction. Referral Partner agrees not to remove, alter, or otherwise modify any Marks affixed by GoFormz. Referral Partner acknowledges that all goodwill created or otherwise associated with the promotion,

marketing, distribution and support of the GoFormz Offerings and the trademarks and trade names associated therewith during or following the term of this Agreement will accrue directly to the benefit of GoFormz and will be the sole and exclusive property of GoFormz. Referral Partner's use of the Marks shall be in compliance with GoFormz's then-current trademark usage guidelines. Referral Partner will display the appropriate proprietary rights notice, including use of the appropriate proprietary rights notice, including use of the encircled "R" symbol ("®") and/or the letters "TM" or "SM," as appropriate, in conjunction with display of the Marks. Should GoFormz find objectionable any use of the Marks by Referral Partner, GoFormz will have the right to revoke, with respect to the objectionable use, the rights granted to Referral Partner under this Section to use such Marks, and Referral Partner will immediately cease using the applicable Marks in the manner found objectionable by GoFormz. Referral Partner shall do nothing inconsistent with such ownership of the Marks nor use the Marks in any way other than

6.5 **Ownership and Proprietary Rights.** As between GoFormz and Referral Partner, GoFormz retains all right, title and interest in and to the GoFormz Offerings and Marks, and all intellectual property rights therein. Other than as expressly set forth in this Agreement, Referral Partner acknowledges that it neither owns nor acquires any rights in or to the GoFormz Offerings or Marks. Referral Partner hereby assigns to GoFormz all rights, title and interest, including, without limitation, all property rights in any feedback, suggestions, ideas, derivative works, modifications, enhancements, or improvements related to the GoFormz Offerings any of its representatives or employees provide, propose, create, conceive, author or develop. GoFormz retains the right to use the GoFormz Offerings for any purpose in GoFormz's sole discretion, including, without limitation, by appointing additional referral partners and/or agents to market and promote the GoFormz Offerings.

7. Referral Fees

7.1 **Referral Fees.** In complete consideration of Referral Partner's performance of its obligations hereunder and subject to the other provisions of this Agreement, GoFormz will pay to Referral Partner the Referral Fees. The "**Referral Fees**" will mean 20% of first year license/subscription payments as and if received by GoFormz from Referral Customers in connection with GoFormz Offerings, and excluding (i) any payments for renewals or subsequent transactions related to a Referral Customer, and (ii) payments from a Referral Customer if GoFormz, any of its affiliates, a value added reseller, or another referral or other partner identified the applicable Prospect before Referral Partner provided a written referral to GoFormz pursuant to this Agreement.

7.2 **Payment of Referral Fee:** If Referral Customer pays for the GoFormz Offering annually in advance, GoFormz will pay to Referral Partner the applicable Referral Fees within thirty (30) days after the end of the "**Quarter**" payment was received by GoFormz of applicable fees from Referral Customers. If Referral Customer pays on a monthly subscription basis, GoFormz will pay to Referral Partner the applicable Referral Fees received from Referral Customers within thirty (30) days after the end of each "**Quarter**" during the first year of such subscription.

7.3 **Taxes.** Referral Partner will be solely responsible for all national, state or local sales, use, value-added, personal property or other taxes or levies applicable to any consideration paid or payable by GoFormz to Referral Partner under this Agreement or which GoFormz may otherwise be required to pay or collect upon the payment of any amount under this Agreement. If any such tax or levy be assessed against GoFormz, Referral Partner agrees to pay such tax or levy and indemnify GoFormz against losses or expenses associated with any claim for such tax or levy. In no event will Referral Partner be responsible for any income or other taxes of GoFormz or any sales, use, or similar taxes which are a Customer's responsibility.

8. Representations and Warranties

8.1 **Mutual Representations and Warranties.** Each party hereby represents and warrants (i) that it has the legal right and authority to enter into and perform its obligations under this Agreement; (ii) that the execution and performance of this Agreement will not conflict with or violate any provision of any law having applicability to such party; and (iii) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such party and will be enforceable against such party in accordance with its terms.

8.2 **Compliance.** Each party represents and warrants that it does and will comply with all applicable laws, regulations, rulings, and executive orders of the United States and all other applicable governmental entities, including, without limitation, the Export Administration Regulations, U.S. anti-boycott regulations, U.S. sanctions and economic embargo programs administered by the U.S. Treasury Department's Office of Foreign Assets Control, and all applicable laws and regulations relating to the import, export, marketing, sale or distribution of the GoFormz Offerings. Referral Partner represents and warrants that (i) it is not located and will not refer or seek to obtain Prospects in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, (ii) it is not listed on any U.S. Government list of prohibited or restricted parties, and (iii) it will not seek to refer any Prospect that is on such list. Referral Partner represents and warrants that no officer, director, employee, or agent of Referral Partner is an "official" of any government as that term is defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended, nor will Referral Partner employ any such "official." Referral Partner agrees not to take any actions that would cause it or GoFormz to violate any applicable laws, regulations, rulings, or executive orders, including without limitation Export Administration Regulations, U.S. anti-boycott regulations, the U.S. Foreign Corrupt Practices Act of 1977, as amended, or other applicable laws or regulations.

8.3 **DISCLAIMER.** THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, INTEGRATION, PERFORMANCE AND ACCURACY AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

9. Indemnification

9.1 **GoFormz Indemnity.** GoFormz will indemnify, defend and hold harmless Referral Partner, its officers, directors and employees from and against any liability or expense arising from: (i) any third party claim that the GoFormz Offerings or the Marks infringe or misappropriate such third party's intellectual property rights, or (ii) any claim by a Referral Customer under a Customer Agreement for GoFormz's breach of that Customer Agreement; provided that (a) Referral Partner notifies GoFormz promptly in writing of the claim; (b) Referral Partner provides GoFormz with all reasonable assistance, information, and authority at no charge to GoFormz; and (c) GoFormz will have exclusive control of the defense and negotiations related to any such claim or suit and its settlement or compromise. Notwithstanding the foregoing, GoFormz will have no obligation under this Section or otherwise with respect to any claim based upon (i) any use, marketing, or promotion of the GoFormz Offerings or Marks that is not in accordance with GoFormz's documentation or this Agreement; (ii) any use, marketing, or promotion of the GoFormz Offerings or Marks in combination with other products, services, equipment, software, or marks not supplied by GoFormz; or (iv) any modification or alteration of the GoFormz Offerings or Marks by any person other than GoFormz; or (v) Referral Partner's breach of this Agreement ("**Indemnity Exceptions**"). GoFormz will have the right at its sole expense to (i) modify GoFormz Offerings or Marks to avoid infringement or substitute other non-infringing products or services; (ii) obtain a license for the continued use of the GoFormz Offerings or Marks; or (iii) terminate this Agreement. This infringement indemnity states GoFormz's entire and exclusive liability and obligations and Referral Partner's sole and exclusive remedy for any claim of infringement of third party patent, copyright, trademark, trade secret or other intellectual property rights.

9.2 **Referral Partner Indemnity.** Referral Partner will indemnify, defend and hold harmless GoFormz, its officers, directors and employees from and against any liability or expense arising from: (i) Indemnity Exceptions relating to an act by or on behalf of Referral Partner; (ii) Referral Partner's marketing, promotional, lead generation, or referral practices, including any failure to comply with applicable laws and regulations; or (iii) Referral Partner's agreement or relationship with any Prospect; provided that (x) GoFormz notifies Referral Partner promptly in writing of the claim; (y) GoFormz provides Referral Partner with all reasonable assistance, information, and authority at no charge to Referral Partner; and (z) Referral Partner will have exclusive control of the defense and negotiations related to any such claim or suit and its settlement or compromise.

10. Limitations of Liability

10.1 **GENERAL.** IN NO EVENT WILL EITHER PARTY BE LIABLE, WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR ANY LOST PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOST SAVINGS, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. IN NO EVENT WILL A PARTY'S TOTAL LIABILITY IN CONTRACT, TORT OR OTHERWISE ARISING OUT OF, IN CONNECTION WITH OR IN RELATION TO THIS AGREEMENT EXCEED THE AMOUNT PAID BY GOFORMZ TO REFERRAL PARTNER UNDER THIS AGREEMENT. The foregoing limitations of liability will not apply with respect to Referral Partner's breaches of Sections 4.4 or 5, the infringement by a party of the other party's intellectual property, or breaches by a party of its confidentiality obligations hereunder.

10.2 **ESSENTIAL PURPOSE.** IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT IN THE EVENT ANY REMEDY HEREUNDER IS DETERMINED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE, ALL LIMITATIONS OF LIABILITY AND EXCLUSIONS OF DAMAGES SET FORTH HEREIN WILL REMAIN IN EFFECT.

11. **CONFIDENTIALITY.** Referral Partner will maintain all Confidential Information of the GoFormz in strict confidence. Except as provided in this Agreement, Referral Partner will not use Confidential Information of GoFormz except to perform or otherwise fulfill the purpose of this Agreement, or disclose it in any manner to any third party, without the prior express written consent of GoFormz. Referral Partner will restrict access to, and use of, Confidential Information of GoFormz to those employees and agents of Referral Partner's organization with a need to use the information to perform under or otherwise fulfill the purpose of this Agreement. Referral Partner will use the same degree of care in handling and safeguarding Confidential Information that it uses in handling and safeguarding its own Confidential Information, and in any case not less than reasonable care. Before disclosing any Confidential Information to its officers or employees, Referral Partner will subject such officers and employees to a legally binding obligation of confidentiality no less stringent than that by which Referral Partner is bound. The foregoing obligations will not apply to information that (i) was in the public domain at the time it was disclosed or has entered the public domain through no fault of Referral Partner; (ii) was known to Referral Partner, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; or (iii) became known to Referral Partner, without restriction, from a source other than GoFormz's without breach of this Agreement by Referral Partner or otherwise in violation of GoFormz's rights. Nothing in this section prohibits any disclosure required by a valid court order or subpoena provided that Referral Partner gives GoFormz prior notice of, and if possible a reasonable opportunity to contest, such required disclosure. Referral Partner acknowledges that, because its services are unique and because Referral Partner will have access to Confidential Information of GoFormz, any breach of this section by Referral Partner will cause irreparable injury to GoFormz for which monetary damages would not be an adequate remedy and, therefore, will entitle GoFormz to injunctive relief (including specific performance). The rights and remedies provided to each party in this Agreement are cumulative and in addition to any other rights and remedies available to such party at law or in equity.

12. Termination

12.1 **Termination for Convenience.** GoFormz will have the right to terminate this Agreement for convenience at any time upon ten (10) business days' prior written notice to Referral Partner.

12.2 **Termination for Breach.** Either party may terminate this Agreement if the other party breaches any of its duties or obligations under this Agreement and such breach is not cured within thirty (30) days of receipt of notice of such breach from the

non-breaching party.

12.3 **Effect of Termination.** Upon any termination or expiration of this Agreement, Referral Partner (i) will immediately discontinue all marketing and promotion of the GoFormz Offerings, as well as any use of GoFormz's Confidential Information delivered under this Agreement; (ii) will delete any such GoFormz Confidential Information from Referral Partner's computer storage or any other media; and (iii) will return to GoFormz or, at GoFormz's option, destroy, all copies of such Confidential Information and any other materials delivered pursuant to Section 3.1 then in Referral Partner's possession. In the event of the termination or expiration of this Agreement for any reason, GoFormz will not be liable to Referral Partner because of such termination or expiration, for compensation, reimbursement or damages on account of the loss of prospective profits referral Partner's sole and exclusive remedy for any claim of infringement of third party patent, copyright, trademark, trade secret or other intellectual property rights.

12.4 **Referral Partner Indemnity.** anticipated sales or on account of expenditures, inventory, investments, leases or commitments in connection with the business or goodwill of either party. Referral Partner will indemnify and hold harmless GoFormz from any and all claims for compensation asserted by Referral Partner employees or any third parties. Termination or expiration will not, however, relieve either party of obligations incurred prior to the termination or expiration or the payment of referral fees by GoFormz to Referral Partner during any Tail period as expressly required under this Agreement.

12.5 **Survival.** The provisions of Sections 1, 2.2, 3.2, 4.3, 5.3, 5.5, 6, 7.3, 8, 9, 10, 11.3, 11.4, and 12 will survive the termination or expiration of this Agreement.

13. General Provisions

13.1 **Non-Disparagement.** Referral Partner will not disparage GoFormz or any of its products or services, including the GoFormz Offerings.

13.2 **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and, except as specifically provided herein, supersedes and merges all prior oral and written agreements, discussions and understandings between the parties with respect to the subject matter hereof, and neither of the parties will be bound by any conditions, inducements or representations other than as expressly provided for herein.

13.3 **Notices.** A Each party must deliver all notices or other communications required or permitted under this Agreement in writing to the other party by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Notice will be effective upon receipt or refusal of delivery. If delivered by certified or registered mail, any such notice will be considered to have been given five (5) business days after it was mailed, as evidenced by the postmark. If delivered by courier or express mail service, any such notice shall be considered to have been given on the delivery date reflected by the courier or express mail service receipt. Each party may change its address for receipt of notice by giving notice of such change to the other party.

13.4 **Amendments; Modifications.** This Agreement may not be amended or modified except in a writing duly executed by both parties.

13.5 **Assignment; Delegation.** Referral Partner may not assign any of its rights or delegate any of its duties hereunder without the prior written consent of GoFormz, and, absent such consent, any attempted assignment or delegation will be null, void and of no effect.

13.6 **No Third Party Beneficiaries.** The parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the Parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity, other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

13.7 **Severability.** If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions contained in this Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance or jurisdiction, or of rendering any other provisions of this Agreement invalid or unenforceable whatsoever.

13.8 **Waiver.** No waiver under this Agreement will be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of such waiver is sought. Any such waiver will constitute a waiver only with respect to the specific matter described therein and will in no way impair the rights of the party granting such waiver in any other respect or at any other time. Any delay or forbearance by either party in exercising any right hereunder will not be deemed a waiver of that right.

13.9 **Governing Law.** This Agreement will be governed by the laws of California, without regard to any provision of law that would require or permit the application of the substantive law of any other jurisdiction or to the United Nations Convention on the International Sale of Goods. For purposes of all claims brought under this Agreement, each of the parties hereby irrevocably submits to the jurisdiction of the state courts located in the San Diego, California metropolitan area.

13.10 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed will be deemed to be an original and all of which when taken together will constitute one Agreement.

13.11 **Headings.** The headings in this Agreement are inserted merely for the purpose of convenience and will not affect the meaning or interpretation of this Agreement.