

Sytel Global Referral Partner Agreement

This agreement is made the
.....day of.....20.....
(the "Commencement Date")

BETWEEN

(1) SYTEL LIMITED
a company incorporated in England
whose main address is at
1 Cromwell Court, New Street,
Aylesbury, Bucks HP20 2PB,
United Kingdom
("Sytel");

AND

(2)
a company incorporated in.....
whose main address is at
.....
.....
.....
.....
("the Referral Partner")

WHEREAS

- A. Sytel provides software for the contact center market (The Software);
- B. The Referral Partner wishes to be appointed by Sytel as a non-exclusive agent for the referral to Sytel of potential sales for The Software;
- C. Sytel wishes to appoint the Referral Partner as a non-exclusive agent for the referral to Sytel of potential sales of The Software in accordance with these terms and conditions herein; and
- D. The Parties have therefore agreed that in respect of any referral Sytel will pay a Commission to the Referral Partner subject to the terms of this Agreement.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1 DEFINITIONS

1.1 In this Agreement:

"**Agreement**" means these terms and conditions as amended by written agreement between the Parties from time to time;

"**Revenue**" means the Revenue payable by Customers to Sytel for a sale of The Software, following a referral;

"**Confidential Information**" means any information which is disclosed by either Party to the other in connection with this Agreement, whether orally or in writing and whether or not expressly stated to be confidential or marked as such;

"**Customers**" means Prospects who become end users of The Software;

"**Documentation**" shall mean user help files, operating manuals, user instructions and other written materials provided by Sytel that relate to The Software;

"**Group**" means in relation to either party, itself and each of its holding companies or subsidiaries for the time being and any subsidiary of any such holding company;

"**Intellectual Property**" means any trade mark, patent, copyright, registered design or other industrial or intellectual property right of Sytel for any of the foregoing;

"**Prospect**" means a potential Customer of The Software referred to Sytel by the Referral Partner;

1.2 References herein to Clauses or Schedules are to Clauses of or Schedules to, this Agreement.

1.3 In this Agreement unless the context otherwise requires words in the singular include the plural and vice versa and words importing any gender include all genders.

1.4 The Schedules form an integral part of this Agreement and references to this Agreement include the Schedules to this Agreement.

1.5 The headings are for convenience only and do not affect the interpretation of this Agreement.

1.6 References in this Agreement to a "person" shall include any person, partnership, firm, company or organisation, accepted by Sytel as a Referral Partner.

Sytel Global Referral Partner Agreement

2 OBLIGATIONS AND RIGHTS OF SYTEL

- 2.1 Sytel shall provide Sytel branded sales and marketing information and literature applicable to The Software, as available from time to time for the Referral Partner's use in connection with its marketing activities.
- 2.2 Sytel shall use all reasonable efforts to follow up on all referrals and shall, on no less than a bi-monthly basis review progress with the Referral Partner.
- 2.3 Sytel reserves the right to pass any referrals to a partner, for example reseller. In such case the terms of the Agreement remain applicable and the Revenue is the monies received by Sytel from such Partner.
- 2.4 Sytel shall make commission payments promptly as per Schedule 1 below.

3 OBLIGATIONS AND RIGHTS OF THE REFERRAL PARTNER

- 3.1 The Referral Partner shall:
 - 3.1.1 act and describe itself as an "independent referral partner of Sytel" and be fully responsible for its own acts and those of its employees;
 - 3.1.2 at all times act in good faith to protect the interests of Sytel and use commercially reasonable endeavours to promote and extend sales of The Software. In particular it shall ensure that it makes appropriate introductions to Prospects such that Sytel is then able to have an effective dialogue with a relevant party there;
 - 3.1.3 not make any representations regarding The Software other than those contained within the Documentation or Sytel's accompanying marketing materials;
- 3.2 The Referral Partner shall be entitled to describe itself as Sytel's "Authorised Referral Partner" for The Software but shall not hold itself out as Sytel's partner or as being entitled to bind Sytel in any way;
- 3.3 The Referral Partner warrants and represents to Sytel that it has no financial or other economic interest, either directly or indirectly with any competitor of Sytel.

4 PUBLICITY AND PROMOTION

- 4.1 The Referral Partner grants Sytel the right to:
 - 4.1.1 refer to the Referral Partner in proposals or other similar submissions made to prospective Referral Partners and Customers; and
 - 4.1.2 use free of charge the Referral Partner's logos, trademarks and registered trademarks solely for the promotion of the Sytel Referral Partner programme.
- 4.2 The Referral Partner agrees that it is not entitled to and shall not receive any compensation for the rights granted to Sytel nor for the fulfilment of its obligations pursuant to this Clause.

5 INTELLECTUAL PROPERTY

- 5.1 Each Party authorises the other to use the Party's trade marks (including logos) in accordance with guidelines provided for the purposes of exercising the Party's rights and performance of its obligations under this Agreement and the using Party shall not use any of these trade marks in any way which might confuse or mislead the public or prejudice their distinctiveness, validity or the goodwill or to be adverse to the best interests of the owning Party;
- 5.2 Except as provided in Clause 5.1 neither Party shall have or acquire any rights in respect of the Intellectual Property of the other Party;

6 CONFIDENTIALITY

- 6.1 The Parties shall at all times during the continuance of this Agreement:
 - 6.1.1 use their best endeavours to keep all Confidential Information confidential and accordingly not disclose any Confidential Information to any other person; and
 - 6.1.2 not use any Confidential Information for any purpose other than the performance of its obligations under this Agreement.
- 6.2 Any Confidential Information may be disclosed by the Parties to: (i) any governmental or other authority or regulatory body; or (ii) any employees of the Referral Partner or of any of the aforementioned persons; to such extent only as is necessary for the purposes

Sytel Global Referral Partner Agreement

contemplated by this Agreement, or as is required by law and subject in each case to the Party using its best endeavours to ensure that the person in question keeps the same confidential and does not use the same except for the purposes for which the disclosure is made.

7 LIMITATION OF LIABILITY

- 7.1 Neither Party limits its liability (if any) in respect of fraud, the death of or personal injury to, any person caused by its negligence;
- 7.2 The Referral Partner is under a duty to mitigate any losses howsoever caused;
- 7.3 Save as otherwise provided by this Clause 7, any other liability (whether for breach of this Agreement, negligence or otherwise) of Sytel shall be limited in respect of each series of connected events to a sum equal to the aggregate amount of commission that was received or was receivable by the Referral Partner in the 12 months prior to the date of any claim by the Referral Partner.

8 DURATION & TERMINATION

- 8.1 This Agreement shall come into effect on the Commencement Date and shall continue until terminated by either Party giving 1 (one) months written notice in the first year; 2 (two) months written notice in the second year and 3 (three) months written notice in the third and any subsequent years, or by either Party as permitted herein.
- 8.2 Either Party shall be entitled to terminate this Agreement forthwith by notice to the other Party if:-
 - 8.2.1 any action or proceedings under insolvency law is taken against the other Party or the other Party makes any arrangement or compromise with its creditors, or ceases to carry on business or suffers any execution or distress over its assets, or is the subject of a voluntary or compulsory liquidation (other than for the purpose of reconstruction or amalgamation); or
 - 8.2.2 the other Party commits a material breach of the provisions of this Agreement and, in the case of a material breach of any of the provisions which is capable of remedy, fails to remedy the same within 30 (thirty) days after receipt of

a notice in writing from the first Party giving particulars of the breach and requiring it to be remedied.

- 8.3 The right to terminate this Agreement shall not prejudice any other right or remedy of the relevant Party in respect of any breach or any rights, obligations or liabilities accrued prior to termination.
- 8.4 The obligations of the Parties under Clauses which are of a continuing nature and capable of surviving expiry or termination of this Agreement shall continue in full force and effect notwithstanding such expiry or termination.

9 CONSEQUENCES OF TERMINATION

- 9.1 On the expiry or termination of this Agreement the Referral Partner shall:
 - 9.1.1 within 7 (seven) days of the date of termination, cease using and return to Sytel or otherwise dispose of as Sytel may instruct all marketing and other materials relating to The Software or to the business of Sytel which the Referral Partner may have in its possession or under its control;
 - 9.1.2 cease to represent itself as an appointed Referral Partner of Sytel and remove all such references from its published marketing material, in whatever form;
 - 9.1.3 not do (or omit to do) anything which may adversely affect the reputation or goodwill of Sytel;
- 9.2 Commission shall be payable in respect of Revenue that is received by Sytel in the six months following the termination date, provided that the sale took place prior to termination, save that all Commissions from the date of termination are forfeited if this Agreement is terminated by the Referral Partner;
- 9.3 In the event of termination by the Referral Partner pursuant to Clause 8.1 above, it shall have no claim against Sytel for compensation for loss of Referral Partner rights, loss of goodwill or any similar loss.;
- 9.4 The expiry or termination of this Agreement shall be without prejudice to any other rights or remedies which either Party may be entitled to under this Agreement or at law and shall not affect any rights or liabilities which have

Sytel Global Referral Partner Agreement

already accrued to either of the Parties under this Agreement.

10 ASSIGNMENT

- 10.1 Neither Party shall assign or delegate all or any of its rights or obligations under this Agreement (apart from on a solvent amalgamation or reorganisation), except to a member of its Group, without the prior written agreement of the other Party which is not to be unreasonably withheld or delayed.

11 ENTIRE AGREEMENT

- 11.1 This Agreement constitutes the entire Agreement between the Parties relating to the subject matter of this Agreement and supersedes any previous agreements and representations made between the Parties;
- 11.2 No amendment or variation of this agreement shall be effective unless in writing and signed by a duly authorised representative of each of the Parties.

12 SEVERABILITY

- 12.1 If any part of this Agreement is found by a court of competent jurisdiction or other competent authority to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.
- 12.2 The Parties agree to substitute for any invalid or unenforceable provision a valid or enforceable provision that achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

13 GENERAL

- 13.1 Failure by either Party at any time to enforce any of the provisions of this Agreement shall not be construed as a waiver by such Party of any such provision or in any way affect the validity of this Agreement or any part hereof.
- 13.2 No granting of time or other forbearance or indulgence by either Party to the other Party shall in any way release, discharge

or otherwise affect the liability of the other Party under this Agreement.

- 13.3 This Agreement may be executed in any number of counterparts each of which when executed and delivered is an original, but all the counterparts together constitute the same document.
- 13.4 No waiver by either Party of any default of the other Party hereunder shall operate or be constructed as a waiver by the first Party of any future defaults whether of a like or different character.
- 13.5 If, due to strikes, industrial action short of a strike, war, accidents, fire, flood, natural catastrophes or other obstacles over which neither Party has any control (an event of Force Majeure), either Party fails to perform any of its obligations under the Agreement, neither Party shall be held responsible for any loss or damage which may be incurred as a result of such failure. Should the event of Force Majeure continue for longer than four weeks, either Party shall have the option of terminating this Agreement immediately without further liability other than such liabilities as have already accrued when this Agreement ends.
- 13.6 This Agreement is made solely and specifically between and for the benefit of the Parties and is not intended to be for the benefit of, and shall not be enforceable by any person who is not named at the date of this Agreement as a Party to it, under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither Party can declare itself a trustee of the rights under it for the benefit of any third party.

14 NOTICES

- 14.1 Any notice required to be given pursuant to this Agreement shall be provided in writing, including by email, to the address of the relevant Party as set out in this Agreement or such other address as may be notified from time to time. Such notices will be deemed to be delivered when transmitted if by email/fax or two days after posting if sent by first class post.

15 GOVERNING LAW AND JURISDICTION

- 15.1 This Agreement shall be governed by and construed in accordance with the laws of England and each Party hereby

Sytel Global Referral Partner Agreement

irrevocably submits to the exclusive jurisdiction of the Courts of England.

SCHEDULE 1 – COMMISSIONS

1. Commission payable is calculated at the rate of

.....%
of the net value of Software manufactured and supplied by Sytel. No commission shall be payable in respect of services, bespoke work or fees in respect of maintenance and support
2. Commission shall be payable to the Referral Partner at the month end following receipt of revenue by Sytel from the Customer.
3. Sytel will make payments to the Referral Partner by Bank Transfer.

Signed by Sytel Limited

.....

Title.....

Signed by Referral Partner

.....

Title.....

