



## **REFERRAL PROGRAM**

This is an Agreement regarding the Acceptiva Referral Program. The Acceptiva Referral Program (the "Program") is a program that enables you to receive a referral payment from Acceptiva ("Payment") for referring a new client to the Acceptiva service (the "Service"). To participate in the Program, you must read, agree with, and accept all of the terms and conditions contained in this Agreement. The Program is offered subject to your acceptance of the terms, conditions, and notices contained in this Agreement without modification.

### **1. Referral Program Agreement**

As used in this Agreement, "Acceptiva", "we", "us" or "our" means Acceptiva, LLC., a Washington limited liability company, with its principal place of business at 8130 Railroad Avenue, SE Snoqualmie, Washington 98065, and "Referrer", "you", "your" and "yours" means you, the individual or business that signs this Agreement (electronically or otherwise).

"Your Site" or "Referral Site" means the website that you specify in the application that is owned by you. The "Acceptiva Site(s)" shall mean [www.acceptiva.com](http://www.acceptiva.com) and other sites owned and operated by Acceptiva. The "Acceptiva Service" shall mean Acceptiva's online service as defined at [www.acceptiva.com](http://www.acceptiva.com).

### **2. Program Participant Qualification**

To be accepted into the Program you must first apply by using the link on this page. Program participants must be businesses that have a pre-existing relationship with the new client being referred to the Acceptiva service. Program participants may not acquire names for referrals from group email addresses, third party bulk mailing lists or other similar sources. You may not send unsolicited e-mails to prospects to acquire referred clients. If you do send unsolicited emails for this purpose, your participation in the program will be terminated and any Payments due will be forfeited. You may not refer your own organization as a new client for the Program. You may not refer a new client more than once, i.e., former clients returning to the service cannot be referred as part of this Program.

### **3. Application to the Acceptiva Referral Program**

To begin the application process, you must submit the on-line Referral Program application. Acceptiva will evaluate your application in good faith and will notify you in a timely manner regarding acceptance or rejection of your application. Acceptiva may reject your application if it determines (in its sole discretion) that You are unsuitable for the Acceptiva Referral Program for any reason, including, but not

limited to, if You or Your business's website incorporates images or content that is in any way unlawful, harmful, threatening, defamatory, obscene, harassing or racially, ethically or otherwise objectionable.

#### **4. Use of Acceptiva Marks**

After obtaining Acceptiva's written consent, a participant in the Program that is actively promoting the Acceptiva service may use the Acceptiva name and descriptions of the Acceptiva service as they are defined and communicated on the Acceptiva website [[www.acceptiva.com](http://www.acceptiva.com)] only. Acceptiva reserves the right to restrict or deny the use of the Acceptiva name, service marks, trademarks and logos at any time that Acceptiva deems appropriate.

#### **5. Ownership of Referred Clients**

Any referred client who signs up with the Acceptiva Service will be deemed to be a client of Acceptiva, and accordingly, all Acceptiva rules, policies, and operating procedures will apply to those clients. We will determine the prices charged for the Acceptiva Service provided to customers under this Referral Program in accordance with our own pricing policies. Acceptiva, at its sole discretion, may change its rules, policies, operating procedures, services offered, pricing and referrer Payment at any time by posting notice of the change on the Acceptiva website [[www.acceptiva.com](http://www.acceptiva.com)] 30 days prior to the effective date of the change, or by notification to existing clients via email 30 days prior to the effective date of the change.

#### **6. Payment Schedule**

After a new referred client has been made active, i.e., their merchant account is live and available to process transactions, we will mail you a Payment check via USPS to the address provided in the on-line Referral Program application. If a referred client cancels service within the first 30 days and requests a refund of their Acceptiva sign up fee, you will be required to refund the Payment to us. We reserve the right to deduct refunds from any future Payments due to you.

#### **7. New Client Signup**

New clients must sign up with Acceptiva using our standard online sign up process. Program participants should not sign up on behalf of new clients unless expressly asked to do so by the new client. New clients should enter your name (or your business name) on Step 7 of the online sign up process in the "Referrer Name" field. If the new client fails to do so you will not receive Payment for the referral unless you notify us within 14 days of the sign up date, and we are able to confirm the referral.

#### **8. Term of the Referral Agreement**

The term of this Referral Agreement begins upon Acceptiva's acceptance of your Referral Program application, and ends when terminated by either party in accordance with this Agreement. Acceptiva will pay you any Payment you may have earned before termination, in accordance with the Payment schedule in Section 6, above.

## **9. Modification**

Acceptiva may modify any of the terms and conditions contained in this Agreement at any time. We will notify you of the modification via email. If a modification is unacceptable, you may terminate this Agreement by giving notice of termination to Acceptiva in writing. If you do not give Acceptiva notice of termination, you will be deemed to have accepted the modifications. Modifications will apply to all transactions after the date notice of the modification is sent to you, unless the notice establishes another effective date.

## **10. Relationship of the Parties**

You and Acceptiva are independent of each other, and nothing in this Agreement creates any joint venture, agency, franchise, sales representative, or employment relationship between you and Acceptiva. You understand that you do not have authority to make or accept any offers or make any representations on behalf of Acceptiva. You may not make any statement, whether on Your Site or otherwise, that would contradict anything in this Agreement. This Agreement does not create an exclusive relationship between the parties. Either Acceptiva or Referrer may enter into agreements with other entities that provide services or functions similar to those provided by the other party to this Agreement.

### **Disclaimers**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ACCEPTIVA MAKES NO, AND EXPRESSLY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE REFERRAL PROGRAM, THE LINKS, TRADEMARKS, THE ACCEPTIVA SITES, THE ACCEPTIVA SERVICE, AND ANY OTHER SERVICE PROVIDED BY ACCEPTIVA HEREUNDER, AND ANY OTHER SERVICE, CONTENT, TOOLS, OR RELATED DOCUMENTS OR MATERIALS (IN ELECTRONIC FORM OR OTHERWISE) PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT AND IMPLIED WARRANTIES ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE OR TRADE USAGE. ACCEPTIVA EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY REGARDING THE PERFORMANCE, AVAILABILITY, FUNCTIONALITY, OR ANY OTHER ASPECT OF THE ACCEPTIVA SITE.

### **Limitation of Liability**

ACCEPTIVA WILL NOT BE LIABLE FOR LOST PROFITS, LOST BUSINESS OPPORTUNITIES OR ANY OTHER INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE LINKS, THE ACCEPTIVA SERVICE OR ACCEPTIVA'S REFERRAL PROGRAM, EVEN IF ACCEPTIVA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING LOSS OF DATA OR LOSS OR INTERRUPTION OF SERVICES OR COMMUNICATIONS. FURTHER, ACCEPTIVA'S AGGREGATE LIABILITY FOR DIRECT DAMAGES ARISING UNDER THIS AGREEMENT WILL NOT EXCEED THE AMOUNT OF THE TOTAL COMMISSIONS PAID OR PAYABLE TO YOU UNDER THIS AGREEMENT.

### **Miscellaneous Provisions**

This Agreement will be governed by the laws of the State of Washington, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the courts located in King County, Washington, United States and you irrevocably consent to the jurisdiction of such courts.

You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns.

Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

This Agreement is the entire agreement between you and Acceptiva with respect to the Acceptiva Referral Program. This Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective permitted successors and permitted assigns. Acceptiva's failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of Acceptiva's right to subsequently enforce those provisions, or any other provisions of this Agreement. The parties acknowledge that if any section of this Agreement is breached, money damages will not be an adequate remedy and Acceptiva may, in addition to any other legal or equitable remedies, seek an injunction or similar equitable relief against such breach or threatened breach without the necessity of posting any bond. In the event that any provision of this Agreement shall, in whole or in part, be determined to be invalid, unenforceable or void for any reason, such determination shall affect only the portion of such provision determined to be invalid, unenforceable or void, and shall not affect in any way the remainder of such provision or any other provision of this Agreement. You and Acceptiva agree to negotiate in good faith or to permit a court or arbitrator to replace any provision of this Agreement held invalid, unenforceable or illegal with a valid provision that is as similar as possible in substance to the invalid, unenforceable or illegal provision. In no event shall Acceptiva have any liability for any delayed performance or nonperformance by Acceptiva which results, in whole or in part, directly or indirectly, from any cause beyond the reasonable control of Acceptiva.