Referral Program Terms and Conditions

Booker Software, Inc. ("Booker") designs, develops and sells cloud and/or software-as-a-service business management and marketing software offerings under the "SpaBooker", "SalonBooker", and other names (collectively, "Booker Offerings"). Booker has created a customer referral program ("Referral Program") to reward persons who recommend the Booker Offering to third parties as described in this Agreement. By completing all of the required information fields in the referral program Sign Up Form (the "Sign Up Form"), checking the box to agree to these Referral Program Terms and Conditions (the "Terms" and together with the Sign Up Form, the "Agreement") and then clicking the "Send" button, you agree to be bound by this Agreement. This Agreement will not become binding upon Booker until Booker issues you a Referral Partner ID number, as described below. You are referred to as "Referral Partner" for purposes of this Agreement.

1. Referral Program. Once Referral Partner accepts this Agreement, Booker will contact Referral Partner to complete the Referral Program application process and Booker assumes no compensation or other obligations under this Agreement until Booker provides such confirmation via email. Booker will send another email to Referral Partner containing an identification number unique to Referral Partner ("Referral Partner ID").

2. Referred Customer. A "Referral" occurs if: (i) Booker enters into a definitive agreement ("Customer Agreement") to provide the Booker Offerings to a customer that provides the Referral Partner ID to Booker's sales representative employee to their Booker corporate email address prior to or concurrently with execution of a Customer Agreement (each, a "Referred Customer"), and (ii) if the Referred Customer agrees to pay a monthly recurring fee for at least one of Booker Basic, Booker Standard, Booker Plus, Booker Multi, and/or Booker Enterprise levels for the Booker Offerings covered by the Customer Agreement. Notwithstanding the foregoing, a Referred Customer shall not include any party: (a) whose contact information is already within Booker's customer database(s), (b) who has been in contact with a Booker representative at any time during the sixty (60) days prior to the date of the Referral, (c) with whom Booker does not enter into a Customer Agreement within ninety (90) days of Booker's receipt of a Referral Partner ID associated with the customer, for any reason, (d) for which Referral Partner is receiving compensation from Booker through any other Booker referral program. Booker, in its sole and absolute discretion, determines whether and when a Referral has occurred.

3. Referral Fees; Payment. Booker will pay Referral Partner a one-time fee of $200 for each Referral (a "Referral Fee"). For Referred Customers who purchase a Booker Multi level Booker Offering, the Referral Fee shall only be paid as to Referred Customers who purchase the Booker Offering for at least one (1) but no more than ten (10) Referred Customer locations. Payments of Referral Fees to Referral Partner will be tallied and processed at the end of each month and paid no later than thirty (30) days after the end of the applicable month in which the Referred Customer executes a Customer Agreement. Referral Fees are not payable if the Referred Customer cancels or terminates the Customer Agreement for the Booker Offering at any time, for any reason, or fails to make payment. All Referral Fees shall be payable in United States Dollars. If Referral Partner is an existing customer of Booker, Referral Partner will receive payment of the Referral Fees either by check or by wire transfer, for international payments, as determined by Booker. Referral Partner shall supply Booker with current and complete information to enable Booker to set up and authorize payment to Referral Partner through Booker's systems of record, and to otherwise comply with applicable tax or legal reporting requirements arising in connection with this Agreement. If Referral Partner is not a Booker customer, Referral Partner will receive payment of Referral Fees by check. All checks will be sent by regular mail. As an incentive to the Referred Customer to participate in this Referral Program, Booker will provide each Referred Customer a one-time discount of $50 off of then-current Booker Offering set-up fees.

4. Limitations. Referral Partner acknowledges and agrees that Referral Partner’s level of Referral Fee earnings under this Agreement are a direct result of Referral Partner’s own efforts and that Booker does not guarantee that Referral Partner will earn any Referral Fees under this Agreement. Referral Partner agrees and acknowledges that no payment of any kind, other than the Referral Fees as provided in this Agreement, is due from Booker to Referral Partner as a result of Referral Partner making Referrals under this Agreement. Referral Partner shall not charge any Referral Customer any fees, costs or charges of any kind on behalf of Booker nor accept any payment of any kind on behalf of Booker. Nothing in this Agreement is intended to prohibit Referral Partner from providing services on Referral Partner’s own behalf to any Referred Customer.

5. Independent Contractor Relationship. Nothing in this Agreement shall operate to create an employment relationship of any kind between Referral Partner and Booker. If any court or agency construes this Agreement to have created an employment relationship between Referral Partner and Booker, then this Agreement shall have no force and effect, and shall be null and void, beginning on the date on which such employment relationship is deemed to have taken effect. Referral Partner represents and warrants that Referral Partner is not currently an employee of Booker and that if
Referral Partner becomes an employee of Booker after the Effective Date, this Agreement shall immediately terminate without the need for any notice upon the date such employment begins. Further, Referral Partner shall under no circumstances offer any form of direct compensation to a Booker employee related to the activities contemplated by this Agreement, including by issuing payment of any portion of a Referral Fee to such Booker employee.

6. **Referral Partner Covenants.** Referral Partner represents and warrants that Referral Partner is not an agent of Booker and has no authority to make any representations, warranties or other commitments to any third party on behalf of Booker, nor any right or authority to bind Booker to any action or agreement whatsoever. Referral Partner represents, warrants and covenants that Referral Partner shall not make any misrepresentations, including by omission, regarding Booker, the Booker Offerings, or any other products or services that Booker provides, in any manner whatsoever. Referral Partner represents and warrants that Referral Partner is not a member of the immediate family of any Booker employee within Booker’s sales department. For this purpose, “immediate family” includes parents, spouses, children, siblings, grandparents and grandchildren.

7. **Term and Termination.** The Effective Date of this Agreement is the date on which Booker sends the Referral Partner ID to Referral Partner and this Agreement shall then continue in effect until terminated as provided herein (“Term”). This Agreement may be terminated by either party upon five (5) days written notice to the other party for any reason or no reason. In addition, this Agreement will terminate immediately and automatically (i) upon any default by Referral Partner under this Agreement; or (ii) as set forth in Section 5 above. Booker’s obligation to pay Referral Fees shall immediately cease on termination of this Agreement. The following provisions shall survive the termination of this Agreement: 5, 7, 8 and 9.

8. **Non-Solicitation and Non-Competition.** Referral Partner acknowledges the character of Booker’s business and the substantial amount of time, money, and effort that Booker has spent and will spend in building relationships with customers and recruiting competent employees and service providers. Referral Partner agrees that, during the Term and for a period of one (1) year thereafter, Referral Partner will not: (i) solicit, hire, or actively assist any other person or entity in soliciting or hiring any Booker employee (provided that nothing shall restrict a Booker employee from responding to a general solicitation of employment publicly disseminated by Referral Partner); or (ii) compete with Booker, directly or indirectly, including as a consultant or an advisor.

9. **General.**

9.1. **Assignment.** This Agreement is personal to Referral Partner and any assignment made by Referral Partner of any rights or obligations hereunder shall be null and void. Booker shall have the unrestricted right to assign this Agreement, or any rights and obligations hereunder, without consent or notice to Referral Partner.

9.2. **Indemnification.** Referral Partner shall at all times during the Term and thereafter, indemnify and hold harmless Booker and its directors, officers, employees, agents, and affiliates, against all claims, proceedings, demands, costs, damages, and liabilities of any kind whatsoever, including legal expenses and reasonable attorneys’ fees, arising out of, connected with, resulting from, or sustained as a result of Referral Partner’s breach of this Agreement.

9.3. **Limitation of Liability.** IN NO EVENT SHALL BOOKER BE LIABLE TO REFERRAL PARTNER (NOR TO ANY PERSON OR ENTITY CLAIMING RIGHTS DERIVED FROM REFERRAL PARTNER’S RIGHTS) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING COST OF COVER, LOST REVENUES OR PROFITS OR LOSS OF BUSINESS OR DATA, REGARDLESS OF WHETHER BOOKER WAS ADVISED, SHAD OTHER REASON TO KNOW, OR KNEW OF THE POSSIBILITY OF SUCH DAMAGES. BOOKER’S LIABILITY TO REFERRAL PARTNER FOR DAMAGES FOR ANY CAUSE WHATSOEVER, REGARDLESS OF WHETHER THE CAUSE OF ACTION ARISES IN CONTRACT, TORT, OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT WHICH BOOKER HAS PAID TO REFERRAL PARTNER IN THE ONE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THIS LIMITATION OF LIABILITY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.

9.4. **Governing Law; Venue; Notice of Disputes.** This Agreement is governed by the laws of the State of New York, excluding its conflict of laws principles. The exclusive venue for any dispute between Booker and Referral Partner shall be New York County, New York, and Referral Partner hereby waives any jurisdictional, venue or inconvenient forum objections thereto. BOOKER AND REFERRAL PARTNER EXPRESSLY WAIVE ANY RIGHT TO A JURY TRIAL. Prior to initiating any legal action, the initiating party shall give the other party 60 days written notice of its intent to file an action. Booker will provide such notice by e-mail to Referral Partner’s e-mail address on file with Booker, and Referral Partner must provide such notice by e-mail to referral.partner@booker.com. During such notice period, the parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims whatsoever. Failing such amicable settlement and expiration of the notice period, any controversy, claim, or dispute shall finally be settled in a court of competent jurisdiction as set forth herein.
9.5. **Modifications.** This Agreement may be amended only: (i) by Booker generally posting revised terms and conditions on the URL containing these terms, or e-mailing Referral Partner notification that a change has occurred or will occur, and the effective date thereof; or (ii) in a writing signed by both parties.

9.6. **Entire Agreement.** This Agreement constitutes the complete and entire expression of the agreement between the parties, and supersedes any and all other representations, warranties and agreements, whether written or oral, with respect to the subject matter hereof. Referral Partner expressly agrees that any varying or additional terms contained in any purchase order or any other written notification or document issued by Referral Partner shall be of no effect and may be accepted for administrative convenience only.

9.7. **Severability; Headings.** These terms shall be severable and construed to the extent of their enforceability in light of the parties’ mutual intent. Section headings are provided for reference purposes only and in no way define, limit, construe or describe the scope or extent of any section.

9.8. **No Third Party Beneficiaries.** Referral Partner and Booker agreed and intend that there are no third party beneficiaries to this Agreement.

9.9. **Electronic Contract.** This Agreement is an electronic contract. Referral Partner (or its authorized agent) indicates acceptance of this Agreement by checking the box to agree to the Terms and then clicking the “SEND” button. This action creates an electronic signature that has the same legal force and effect as a handwritten signature on a written contract under any applicable law or regulation, and is equally binding. By clicking the “SEND” button, Referral Partner (or its authorized agent) acknowledges reading and accepting this Agreement and represents, warrants and agrees that Referral Partner (or its authorized agent) has the power, authority and legal right to enter into this Agreement on behalf of Referral Partner.