



# Partnership Referral Scheme

## Terms and Conditions

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### **Acknowledgment and Declaration**



## Preamble

These Referral Partner Terms and Conditions govern the respective rights and obligations of ELDER TECHNOLOGIES LTD trading as Elder (company number 09803204) (Elder and we and us and our) a company registered in England and Wales and our registered office is at 1st Floor, 230 City Road, London. EC1V 2TT and the partner taking part in the referral scheme (“You” or “Partner”). This Agreement applies to Your participation in Elder’s Referral Scheme whereby You may refer potential customers to Elder. These terms are supplemental to Elder’s General Terms and Conditions, Privacy Policy & Acceptable Use Policy and You will be bound to all of these (collectively referred to as the “Agreement”). If there is any conflict within the Agreement, these Terms and Conditions for Elder’s Referral Scheme will prevail. These additional terms may be amended by Elder at any time and without prior notice to You. Any changes will be communicated via Your registered email address and will be deemed to have been accepted seven (7) days after sending. You acknowledge that You have read and agree to be bound by the following terms and conditions:

## 1. Referral Process

1.1 A Referral for the purposes of this Agreement means the direct recommendation of Elder and our Services to a Referred Customer by You, subject to the terms of this Agreement.

1.2 You are appointed and permitted by Elder to communicate with third parties and offer Referrals by direct introduction or recommendation to third parties through any medium on a one-to-one basis. Recommendation made by mass mailings or similar forms of communications are not Referrals and will not be eligible for Commission.

1.3 A successful Referral of a Referred Customer (“Successful Referral”) is one which satisfies all of the following criteria:

1.3.1 You provide us with details of the Referred Customer as Elder requests for each Referral you make. In order to be eligible for any Commission, the Referred Customer details must be supplied prior to the Referred Customer ordering a Service or being contacted by Elder. You also acknowledge that It is Your responsibility to ensure that Elder actually receives this information – Elder will not be held liable for any errors affecting receipt of the information, whether any errors or other contributing factors are within Elder’s reasonable control or not;

1.3.2 The Referred Customer orders an eligible Service, either before or after the Referred Customer is contacted by Elder;

1.3.3 The Service must be ordered in the Referred Customer’s name and this must match the details You supply to Elder. If the details do not match, You will not be eligible for Commission;

1.3.4 The Referred Customer must provide Elder with accurate and current contact information, to Elder’s request;



- 1.3.5 You use, at Elder's request, all reasonable endeavours to assist Elder in finalising any agreement with the Referred Customer;
- 1.4 If Elder does not enter into a contract for Services with the Referred Customer You refer within 3 months after Your Referral, the Referral will not be eligible for Initial Carer Placement commission.
- 1.5 Elder may, in its sole discretion, refuse any Referred Customer that You refer.
- 1.6 You are solely responsible for any and all expenses arising with referring a third party to Elder.

## 2. Qualifying as a Referred Customer

- 2.1 A Referred Customer is a third party (whether an individual or a corporate entity) to whom You recommend Elder and/or the Services. This includes a parent company, subsidiaries and/or entities directly or indirectly controlled by the Referred Customers.
- 2.2 A third party will not qualify as a Referred Customer (thus making any Referral unsuccessful immediately) if that party:
  - 2.2.1 is already a Elder customer);
  - 2.2.2 was a previous an Elder customer in breach of their agreement or Elder's terms and conditions;
  - 2.2.3 another partner has already referred the Referred Customer within six (6) months of Your Referral; or
  - 2.2.4 has already been contacted by Elder's Sales team within the 3 months prior to Your Referral.
- 2.3 If the multiple Partners submit Referrals for the same Referred Customer, the Partner that first submits their Referral to Elder (in accordance with Clause 1.3 above) will be the only Partner eligible to receive Commission in relation to that particular Referred Customer. Determining the Partner eligible in such a situation will be left to Elder's sole discretion and Elder's position will be final – no correspondence will be entered into disputing the decision.

## 3. Commission Payments

- 3.1 Elder will pay Referrer a Commission for each Successful Referral as described above on the terms set out in this Clause.
- 3.2 Commissions will be calculated on the basis of the rates (detailed in Clause 3.4 below).
- 3.3 The Services to which this Agreement relates and to which Commissions will be paid are: Initial Carer Placement.
  - 3.3.1 An Initial Carer Placement is classed as when Elder has been instructed to find a Live-in-Carer for the Referred Customer and the carer has been in place for a period of two (2) weeks.



3.3.2 Referred Customer who lapse then again instruct Elder to supply Live-in-Care will not be eligible for Initial Carer Placement referral commissions.

3.4 The rates of Commission payments will be: seven hundred and ninety five pounds (£795) (No VAT) per Initial Carer Placement.

3.5 Elder shall pay You Commissions due under this Agreement by invoice from the Partner on the next available payment run (first and third working Thursday of every month).

3.6 Elder agrees to supply, at Your request, data relating to Successful Referrals in order to answer any queries, to resolve any dispute that may arise.

3.7 Commissions will not be paid in relation to Services used by You (or Your affiliates or subsidiaries).

3.8 To be eligible for Commission to be paid, the Referred Customer details supplied on a Successful Referral must, in accordance with Clause 1.3, be accurate and up-to-date. Additionally, the prospect customer must have given explicit consent for their details to be passed to Elder and for Elder to contact them. Elder reserves the right to withhold, delay or refuse paying You Commission on this basis or in relation to accounts that are cancelled before the conditions for Successful Referrals are met or payment of Commission is due.

3.9 Elder may, from time to time and its sole discretion, offer promotional prices on some or all of the listed Services.

## 4. Term and Termination

4.1 This Agreement commences on the date You confirm Your acceptance of the same and will remain in effect until terminated by either of the parties in accordance with the terms hereunder.

4.2 Elder may terminate the Agreement at any time by providing seven (7) days prior written notice to You, without justification.

4.3 If either party becomes bankrupt, insolvent, dissolved, or ceases trading, the Agreement will terminate immediately.

## 5. Confidential Information

5.1 Each party undertakes that it shall not disclose to any person the terms of this agreement or the contents of the discussions and negotiations which have led up to this agreement (Confidential Information), except as permitted by Clause 5.2.

5.2 Each party may disclose the other party's Confidential Information:

5.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers,



representatives or advisers to whom it discloses the other party's Confidential Information comply with this Clause 5; and

5.2.2 as may be required by law, court order or any governmental or regulatory authority.

5.3 No party shall use any other party's Confidential Information for any purpose other than to perform its obligations under this Agreement.

## 6. Representations, Indemnities and Limitations

### **By You**

6.1 You hereby represent and warrant to Elder that:

6.1.1 the information submitted to Elder by You is completely accurate and truthful;

6.1.2 You will not make any representations on behalf of Elder or supply or publish materials concerning the Services except those that have been approved or published by Elder;

6.1.3 any information You provide to Referred Customers or any other third party about Elder will be accurate;

6.1.4 You will not take any form of action nor make any statement that could reasonably be expected to reflect poorly on Elder generally or could have a negative impact on the reputation of Elder, its Services or otherwise; and

6.1.5 You obtain any and all approvals and permissions from Referred Customers that are necessary for You to submit each Referred Customer's information to Elder.

6.2 Elder may supply you with information about the Services to allow You to liaise with third parties in obtaining Referrals. The representations in Clause 6.1 shall apply to this information and Your use of the same.

6.3 Any warranty in a contract with a Referred Customer who has been referred by You under the terms of this Agreement will be for the sole benefit of the Referred Customer. Elder makes no representations or warranties whatsoever to You regarding the Services and, to the extent permitted by law, Elder disclaims any and all express or implied warranties or conditions not expressly stated herein. This includes, without limitation, any warranties of merchantability, fitness for a particular purpose, and non-infringement.

6.4 You shall indemnify and hold harmless Elder, its affiliates and their respective present, former and future officers, directors, employees and agents (now and in the future) and their respective legal representatives, successors and assigns from and against any and all losses, damages, costs, liabilities and expenses which any of the aforementioned may incur or sustain resulting from or arising out of the following:

6.4.1 Your breach of any representation, warranty, or covenant contained in this Agreement;

6.4.2 Services provided by the You to any Elder customer; and



6.4.3 Any claims or actions of third parties alleging, without out limitation, unfair trade practices or false advertising in connection with statements or claims made by You in relation to Elder or its Services.

**By Elder**

6.5 In no event shall Elder be liable for any loss of profits, loss of business, or any indirect, special, exemplary, punitive, incidental or consequential damages as the result of any such action or inaction without regard to the likelihood of any such damages.

## 7. Non-Solicitation

7.1 During the term of this Agreement and for twelve (12) months thereafter, You agree not to, either directly or indirectly, approach, solicit or enter into agreement with any Referred Customer who is deemed a Successful Referral to transfer the Services away from Elder or any of its associated brands.

## 8. Intellectual Property

8.1 Elder's trademarks, trading names, service marks, logos, other names and marks, and related product and service names, design marks and slogans (Intellectual Property) are the sole and exclusive property of Elder. Except as otherwise provided in this Agreement, Referrer may not use any of the foregoing without the prior written consent of Company.

8.2 Elder grants you a restricted licence to use the Intellectual Property for the sole purpose of facilitating Referrals and communicating with third parties. Nothing in this Agreement grants any form of right, title or ownership by You of Elder's Intellectual Property.

## 9. Miscellaneous

### Relationship

9.1 The parties are independent businesses and not partners, principal and agent, or employer and employee, or in any other relationship of trust to each other.

9.2 Nothing in this Agreement shall require You to refer Prospects to Elder or to engage in any activities on behalf of or for the benefit of Elder. No exclusivity for either party is expressed or implied in this Agreement.

### Force Majeure

9.3 Force Majeure means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Agreement. Inability to pay is not Force Majeure. A party will not be liable if delayed in



or prevented from performing its obligations hereunder due to Force Majeure, provided that it:

9.3.1 promptly notifies the other of the Force Majeure event and its expected duration, and

9.3.2 uses reasonable endeavours to minimise the effects of that event.

9.4 If, due to Force Majeure, a party:

9.4.1 is or is likely to be unable to perform a material obligation, or

9.4.2 is or is likely to be delayed in or prevented from performing its obligations for a continuous period of more than sixty (60) days total in any twelve months of operation of this Agreement, the other party may, within thirty (30) days, terminate this Agreement on notice.

### **Variation**

9.5 The terms of this Agreement may be amended by Elder at any time and without prior notice to You. Any changes will be communicated via Your registered email address and will be deemed to have been accepted seven (7) days after sending.

### **Severability**

9.6 The unenforceability of any term of this Agreement will not affect the enforceability of any other part.

### **Waiver**

9.7 Failure by Elder to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

### **Conduct**

9.8 Each party shall comply with applicable Bribery Laws, including ensuring that it has in place adequate procedures to ensure compliance with the Bribery Laws and use all reasonable endeavours to ensure that it complies with any Customer Policies relating to prevention of bribery and corruption (as updated from time to time), and each shall use all reasonable endeavours to ensure that:

9.8.1 all of that party's personnel

9.8.2 all others associated with that party, and

9.8.3 all of that party's subcontractors, involved in performing the Services or with this Agreement so comply. The expressions 'adequate procedures' and 'associated' shall be construed in accordance with the Bribery Act 2010 and documents published under it.

9.9 Without limitation to the above sub-clause, neither party shall make or receive any improper payment (including a bribe, as defined in the Bribery Act 2010), or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and will implement and maintain adequate procedures to ensure that such bribes or payments are not made or received on its behalf.

### **Headings**



9.10 The headings used throughout this Agreement are for convenience only and do not form part of the Agreement itself.

### **Rights of Third Parties**

9.11 This Agreement is not enforceable by any third party under the Contracts (Rights of Third Parties) Act 1999.

### **Assignment**

9.12 Elder shall be free to assign or subcontract any or all of its obligations under this Agreement, and will provide You with notice of the same.

9.13 You may not, without Elder's prior written consent, assign or subcontract any right or obligation under this Agreement, in whole or in part.

### **Notices**

9.14 Any notice referred to in this Agreement sent by Elder shall be in writing (whether by email or letter) to the contact details held on Your account. It is Your responsibility to ensure these are accurate

### **Survival**

9.15 Any terms in this Agreement that, by their nature and meaning, are applicable to circumstances arising because of and following the expiry or termination of this Agreement shall remain in full force and effect. The expiry or termination of this Agreement shall not discharge the liability of either party arising out of a breach of this Agreement during the term of the same.

9.16 Provided that You remain in compliance with the surviving terms of these Terms and Conditions, Elder's obligations to pay Commission to You under this Agreement will continue.

### **Governing Law & Jurisdiction**

9.17 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

9.18 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

### **Entire Agreement**

9.19 This Agreement contains the whole agreement between the parties relating to its subject matter and supersedes and replaces any prior written or oral agreements, representations or understandings between them unless expressly incorporated by reference in this Agreement. Each party acknowledges that it places no reliance on, and shall have no remedy in respect of, any representation (whether innocent or negligent) made but not expressly incorporated into this Agreement. Nothing in this clause limits or excludes any liability for fraud or fraudulent misrepresentation.



## Acknowledgment and Declaration

I confirm that I accept the terms contained herein and that I am duly authorised to enter into this Agreement:

For and on behalf of:

Name:

Email Address:

Signature:

Date: