

Kreato CRM Authorized Sales Partner Program Terms & Conditions

These Terms and Conditions (the “Terms”) and all Exhibits and Attachments attached hereto (collectively the “Agreement”) is entered into between Kreato Software Inc. (“Kreato”), and the Partner (“Partner”), (collectively “Parties”), and sets forth the terms and conditions for the participation in the Kreato CRM Authorized Sales Partner Program (the “Partner Program”). By submitting the application form or linking to the partner program website you are deemed to have agreed to be bound to the terms and conditions set out in this agreement. This Agreement shall replace any and supersede all prior agreements between the Parties with respect to the subject matter herein.

1. Definitions

Action(s) – means Partner Referred Customer Action(s) and Referred Customer Action(s), collectively.

Additional Marketing Collateral – means Partner created promotional literature, materials, information, and other documentation to be approved by Kreato for use in connection with the marketing, promotion, and sale of the Kreato CRM Service.

Customer(s) – means a person, company, or other legal entity that subscribes or intends to subscribe to using the Kreato CRM Service for its own internal use or for offering services to third parties, but not for further distribution.

Email Template(s) – means email creative(s) provided by Kreato and made accessible to Partner.

Logo – means the logo mark(s) designed and designated by Kreato to promote the Kreato CRM Service.

Net Revenue – means all revenues collected by Kreato from all Actions less any discounts, refunds, bad debt, fraudulent charges, charge backs, distributor fees, referral fees, credit card processing fees,

Kreato CRM Data – means all data related to Customer, Referred Customer, and compilation of lead data made available by Kreato CRM to Partner via the Partner Portal or other means.

Kreato CRM Marks – means the Kreato CRM

Logo and all other marks designed and designated by Kreato and used in the marketing and promotion of the Kreato CRM Service.

Kreato CRM Service – means the online, Web based customer relationship management (CRM) service and other products and services created and designed by Kreato including associated offline components.

Kreato CRM Site – means the website located at www.kreatocrm.com.

Kreato CRM Suppression List – means the do-not mail list, compiled of Customers who have opted out of receiving Kreato CRM advertisements, provided to Partner by Kreato.

Partner Email – means an electronic mail advertisement message transmitted by Partner to prospective Customers.

Partner Link – means a hypertext link which shall link directly to a unique sub-domain, identifying Partner for tracking purposes, which opens to a registration page of Kreato CRM located at www.kreatocrm.com (as such URL may be modified from time to time).

Partner Link Indicator – means the creative display used to designate the Partner Link on Partner Site, consisting of either the Kreato CRM Logo and/or Kreato CRM Marks.

Partner Locator – means the geographic listing of Partners on the Kreato CRM Site.

Partner Marks – means all marks and content designated by Partner to be used by Kreato in the marketing and promotion of Partner as a Kreato CRM Partner.

Partner Portal – means online password protected area, on the Kreato CRM Site, accessible by unique access codes made available to Partner. **Partner Program Manual** – means all guidelines and manuals produced by Kreato and included within the Kreato CRM Authorized Sales Partner Program.

Partner of Record – means a unique identifier designated by Kreato to represent Partner.

Partner Referred Customer Action(s) – means an event in which a unique Customer registers for the Kreato CRM Service and accepts the Subscription Agreement and Kreato CRM Privacy Policy, and creates a payable account after paying through any one of acceptable payment methods, after having been directed to such registration through the Partner Link or identified the respective Partner of Record

Partner Site – means a website owned or operated by Partner.

Partner Site Link – means a hypertext link which shall link directly to Partner Site.

Partner Site Link Indicator – means the creative display used to designate the Partner Site Link on Kreato CRM Site, consisting of Partner Marks.

Payment – means monetary consideration paid to Partner.

Personnel – means employees and independent contractors of Kreato or Partner.

Promotional Materials – means the materials, information, and other documentation furnished to Partner by Kreato for display and distribution to prospective Customers regarding the Kreato CRM Service.

Referred Customer Action(s) – means an event in which Referred Customer completes Referred Customer Registration and identifies Partner of Record at the time of Referred Customer Registration.

Referred Customer Registration(s) – means a Referred Customer who creates a payable account after paying the subscription using any of acceptable payment methods.

Subscription Agreement – means the Terms of Service that accompanies and governs the license and use of the Kreato CRM Service.

2. Appointment and License

2.1 APPOINTMENT AS PARTNER.

Subject to the limitations and restrictions provided in this Section 2 and to the other terms and conditions of this Agreement, Kreato hereby appoints Partner, and Partner hereby accepts such appointment, to be Kreato' authorized partner for the limited purpose of marketing Kreato CRM Service to Customers. This appointment is non-exclusive, non-transferable, non-territorial, non-sub licensable and revocable. Partner's appointment is expressly conditioned upon Partner's compliance at all times with the duties and obligations set forth herein, including those in the Partner Program Manual.

- (a) Limited Authority of Partner. This Agreement does not establish Partner as Kreato agent or representative for any other purpose other than the solicitation of orders under the terms and conditions hereof. Partner is not authorized to accept orders or to enter into contracts or any obligation in Kreato name, or to transact any business on behalf of Kreato, except as provided herein. At all times during the term hereof, Partner shall identify itself as an authorized representative and agent only for Kreato CRM Service(s); otherwise Partner shall identify itself as an independent business.
- (b) Partner is an independent contractor, and nothing contained in this Agreement shall be construed to (i) give either party the power to direct and control the day-to-day activities of the other; (ii) create an employer-employee relationship; (iii) give Partner the authority to bind Kreato to any contract with a third party; (iv) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint undertaking.
- (c) All financial and other obligations associated with Partner's business are solely Partner's responsibility. As an independent contractor, the mode, manner and method used by Partner shall be under Partner's sole control and Partner shall be solely responsible for risks incurred in the operation of Partner's business and the benefits thereof. Partner shall bear all of Partner's own expenses in connection with the

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performance of this Agreement and will not be entitled to reimbursement of any such expenses by Kreato.

- (d) Non-Exclusive. Each party acknowledges and agrees that this appointment from Kreato is nonexclusive, and Kreato may appoint other Partners and may use its own sales personnel to market, promote and sell the Kreato CRM Service and nothing contained herein shall prohibit or otherwise restrict Kreato from soliciting or doing business with Customers or marketing, promoting, or referring leads to third parties engaged in a business similar to or competitive with Partner. Furthermore, Kreato may, at any time and in its sole discretion, refuse to approve the sale of the Kreato CRM Service to any Customer for any reason or no reason without liability or payment obligation of any kind.

2.2 GRANT OF PROMOTIONAL MATERIALS LICENSE.

Subject to Partner's compliance with the terms and conditions of this Agreement, and only for the term hereof, Kreato grants Partner a non-exclusive, non-transferable, royalty-free, revocable, limited right (without the right to grant sublicenses) to reproduce, publicly display, and distribute the Promotional Materials and in the same form provided by Kreato CRM, as appropriate to market and promote the Kreato CRM Service.

2.3 GRANT OF LICENSE TO USE MARKS.

Subject to Partner's compliance with the terms and conditions of this Agreement, Kreato hereby grants to Partner, for the term of this Agreement, the worldwide, nonexclusive, revocable, limited right (without the right to grant sublicenses) and license to use and reproduce the Kreato CRM Marks solely in connection with the creation of Additional Marketing Collateral or the Partner Link Indicator. Kreato CRM retains all proprietary rights and all goodwill in and to its respective Marks. Partner grants to Kreato a worldwide, non-exclusive, non-transferable, limited license during the term of this Agreement to use and reproduce Partner Marks in connection with the Partner Site Link Indicator and in promotion of the Partner as a Partner in the Kreato CRM Partner

Program. Partner retains all proprietary rights and all goodwill in and to its respective marks.

2.4 GRANT OF LICENSE TO USE DATA.

Partner is granted a non-exclusive, non-transferrable, revocable, limited right (without the right to grant sublicenses) and license to use Kreato CRM Data for the limited purpose of carrying out Partner Email efforts under this Agreement. This license shall terminate, and Partner shall immediately cease any and all use of Kreato CRM' Data, upon termination of this Agreement. Kreato retains all proprietary rights and goodwill in and to Kreato CRM Data. Kreato CRM Data will be made available through the Partner Portal or other means.

3. Partner Obligations

3.1 PARTNER PORTAL.

Partner's use of the Partner Portal is subject to this Agreement, Kreato CRM' Site Terms at www.Kreatocrm.com, and any additional terms within the Partner Portal. Partner will create an online password that will allow Partner to access the Partner Portal. Partner is responsible for keeping Partner's password confidential. Partner will be responsible for all account activity. If Partner believes Partner's account security has been compromised, please notify the Kreato CRM Partner program office at partner@KreatoCRM.com. Partner will not grant any third-party access to the Partner Portal without prior written approval by Kreato.

3.2 MARKETING AND PROMOTION.

Partner will use commercially reasonable efforts to market and promote the Kreato CRM Service to Customers, at its sole expense. All marketing and promotions efforts will be subject to all limitations, obligations and guidelines contained herein and those set forth in the Partner Program. In connection with the foregoing, the parties may cooperate to produce or Kreato may provide, brochures, product descriptions, specifications, and other promotional materials relating

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to the Kreato CRM Service, 'Promotional Materials', which the parties shall be entitled to use and distribute in connection with marketing efforts under this Agreement pursuant to the license granted in Section 2 above. The parties may use the Promotional Materials in connection with the marketing, promotion, and sale of the Kreato CRM Service under this Agreement. Partner acknowledges and agrees that Kreato owns the copyright in such Promotional Materials and reserves all copyright therein. With the exception of Templates, Partner may create its own promotional literature in connection with the marketing, promotion, and sale of the Kreato CRM Service, ("Additional Marketing Collateral") and may use the Kreato CRM Marks and other materials provided by Kreato CRM in connection therewith specifically for such purposes; provided, however, that Partner shall first submit a copy of any literature so created to Kreato for written approval before initial use or distribution. Partner shall not use or distribute such Additional Marketing Collateral without Kreato' express written consent. Kreato CRM may withhold its consent for any reason. Partner shall only use and distribute Additional Marketing Collateral for the purpose to carry out Partner obligations hereunder only during the term of this Agreement. Partner shall not remove or otherwise alter the Kreato CRM Marks contained in any materials without the prior written consent of Kreato.

3.3 EMAIL TEMPLATES.

Kreato will provide partner with various Email Templates, to be used for any and all email promotion or email marketing performed by Partner in connection with Partner's obligations hereunder. Active Kreato CRM Email Templates will be made available through the Partner Portal or other means. Only active Email Templates may be used to carry out email promotion or email marketing.

3.4 MARKETING COMPLIANCE.

Partner warrants and represents that Partner will fully comply with all applicable national, state, and local laws and regulations governing Partner participation in the Partner Program, including but not limited to the Kreato CRM Privacy Policy and other laws related to privacy, publicity, data protection, electronic communications, anti spamming and laws regulating deceptive trade practices and advertising. Without limiting the foregoing, Partner represents and warrants

that, for each commercial email delivered that promotes a Kreato CRM Service or Partner participation in the Partner Program, Partner will fully comply with the Kreato CRM Privacy Policy and all other applicable national, state and local laws and regulations. In addition, without limiting the foregoing, Partner warrants and represents that Partner will comply with the following requirements with respect to each Partner Email:

- › Prior to transmission, Partner will scrub the mailing list against Kreato CRM' most current Suppression List, made available through the Partner Portal. Partner shall use the Suppression List to remove individuals who have lawfully "opted out" of receiving email from Kreato CRM;
- › Prior to transmission, Partner will scrub the mailing list against Partner's own internal do-not-email list;
- › Partner will only send emails using Kreato CRM provided Email Template located in the Partner Portal;
- › Partner will not alter or modify the Email Template;
- › Partner will include in each Partner Email a "from" line that accurately identifies Partner as the sender of the message;
- › Partner will not identify Kreato in the "from" line as a sender of the message;
- › Partner will include accurate and true header and transmission information;
- › Partner will not include any information in header or transmission details that is deceptive or misleading;
- › The Partner Email subject line will accurately reflect the content of the message;
- › Partner will not include any information in the subject line of Partner Email that is deceptive or misleading;
- › The Partner Email message will clearly and conspicuously disclose that it is an advertisement;

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- › Partner will include in each Partner Email message a clear and conspicuous explanation of procedure by which the recipient may opt out of receiving future commercial emails from Partner or Kreato. Such procedure shall include either a valid email address or a hyperlink that the recipient may use to do so. If Partner chooses to use an email address, Partner must allow the recipient to opt out by replying to such e-mail address. If Partner chooses to use opt-out via a hyperlink, it must allow the recipient to opt out by clicking to a single web page and providing solely his/her email address to effectuate the opt out. The email address or hyperlink must remain active and capable of receiving opt-out requests for at least forty-five (45) days after the email is sent;
 - › Partner shall provide any and all unsubscribe requests that Partner receives from Customers to Kreato within forty-eight (48) hours of receipt;
 - › Partner will not send a Partner Email to any person who has opted out of such receipt;
 - › The Partner Email message will clearly and conspicuously disclose Partner's true name and valid postal address;
 - › Partner will not alter or revise any message creative or Email Template supplied to Partner by Kreato CRM without Kreato' prior written consent;
 - › Partner may include its unique Partner Link in each Partner Email or incorporate Partner Link into Email Template;
 - › Partner will notify Kreato immediately in writing of any investigation, litigation, arbitrated matter or other dispute relating to Partner's email marketing operations.
- (a) concerning the Kreato CRM Services; or (b) that Kreato has approved or sanctioned any statement that Partner makes regarding any Kreato CRM Service. Partner shall not represent, warrant or guarantee that any Kreato CRM Service is designed or licensed for use in circumstances where the failure of the Kreato CRM Service is likely to result in significant risks to health or safety, where fail-proof delivery of time specific information is required, or in other mission critical environments requiring fail-safe controls, including operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, or life support or weapons systems. Partner shall not promote the Kreato CRM Service using fraudulent means. "Fraudulent" means shall include, but not be limited to, the following:
- (1) creating additional Actions through fraudulent traffic generation techniques such as prepopulated forms or other, similar techniques;
 - (2) "Impression spam" which is the frequent or automated searching of a search term, in connection with paid search campaigns in order to reduce a competitor's click through rates on their advertisements; and
 - (3) Any other form, method or technique used to artificially inflate the number of Actions generated by Partner. Partner shall not promote the offer on or through an Incentivized website. "Incentivized" means that a host website offers incentives to users, including, but not limited to, cash, points, prizes, gift cards or other thing of value, if a user engages in conduct that would generate an Action for Partner. Partner shall not alter the Promotional Materials, Email Templates or Kreato CRM Marks, unless expressly approved in writing by Kreato CRM. Partner shall not promote the Kreato CRM Service using any of the following explicitly prohibited techniques or methods:

3.5 PROHIBITED CONDUCT.

Partner shall not engage in any deceptive, misleading, illegal, or unethical practices, or in any practice, promotion or advertising related to the Kreato CRM Service that may be detrimental to Kreato, to Kreato CRM Services, or which may be injurious to the reputation or goodwill of Kreato. Partner shall not make any representations, warranties, or guarantees:

- (1) a website that solely contains a list of links or advertisements;
- (2) a website that is not fully functional (i.e. no "under construction" sites or sections
- (3) a website that includes spawning process popups or that generates or creates multiple pop-up windows

- (4) the use of third party websites' internal communications systems, including, but not limited to, internal email (e.g. Facebook email), bulletin boards, chat rooms, Craig's List (or similar websites), or comments;
- (6) Use of spyware, adware or any other form of malware that generates new web browser windows or
- (7) associating or linking the Kreato CRM Service to a website or content including any of the following:
 - (i) racial, ethnic, gender, age, religious, political, or sexual orientation discrimination;
 - (ii) investment or business opportunities or advice prohibited by law;
 - (iii) obscenity, profanity, pornography, or sexual orientation discrimination;
 - (iv) defamatory, abusive or threatening language, images or content;
 - (v) promotion of illegal substances or narcotics, gambling, or other criminal conduct;
 - (vi) pirating software or media
 - (vii) Hacking, spoofing, phishing or phreaking. Partner shall not generate leads or collect data in violation of the Kreato CRM General Terms & Conditions located on the Kreato CRM Site, www.KreatoCRM.com/terms/.

3.6 DATA USE AND SECURITY.

Partner represents and warrants that Partner will take reasonable measures, including any industry best practices, to ensure the secrecy and security of Kreato CRM' Data. Partner shall comply with any and all national and state laws, rules and regulations governing data security and/or private information. Except as necessary to carry out its Partner Email efforts under this Agreement, Partner shall not use, disclose, sell, rent, sublicense, transfer, export, display, forward or otherwise share Kreato CRM Data with any individual or entity, including email service providers and consultants, without the prior written consent of Kreato.

3.7 TRAINING.

After the Effective Date, subject to availability, Kreato will provide training services via an online presentation intended to inform Partner about sales skills and product information related to the Kreato CRM Service. Partner may request additional training services from Kreato as needed.

3.8 PARTNER LOCATOR.

Partner agrees to be included in a geographic listing of Partners on the Kreato CRM Site. Information including but not limited to, Partner name, company address, phone number, fax, email, specialty information, products carried, Partner Marks and any other information provided by Partner to Kreato, may be included in the Partner Locator directory.

3.9 SUBSCRIPTION AGREEMENT.

In connection with the marketing and promoting the Kreato CRM Service to Customers, Partner will

- (i) instruct the Customer that the Customer's use of the Kreato CRM Service is subject to the terms of a Subscription Agreement, and
- (ii) ensure that the Customer agrees to the terms of the Subscription Agreement. The Subscription Agreement is entered into between the Customer and Kreato. Partner will immediately notify Kreato if Partner becomes aware of any breach of any Subscription Agreement.

(iii) 3.10 RESTRICTIONS.

Partner will not remove or obscure any Kreato CRM trademarks or logos on or in the Kreato CRM Service as delivered to Partner, and will not attach any additional trademarks, logos or trade designations on or to the Kreato CRM Service. Partner will not, intentionally or negligently, use any device, software, or routine that interferes with any application, function, or use of the Kreato CRM Service, or is intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or communication. Partner will not decompile, disassemble, decrypt, extract, reverse engineer, or otherwise attempt to derive the source code of the

Kreato CRM Service, or any other software or code of Kreato CRM (including the tools, methods, processes, and infrastructure) enabling or underlying the Kreato CRM Service. Partner will not use the Kreato CRM Service, other than as necessary to subscribe Customers as described in this Agreement. Partner agrees that Partner will not directly or indirectly: (a) obtain any right, title, or interest in any Kreato CRM mark or any string identifier, whether in the form of a Universal Resource Locator (URL) or in any other form, representing or linking with any network address, such string identifier comprising in whole, comprising in part, or in any way similar to any word portions of any Kreato CRM mark; or (b) employ any word portion of, or any Kreato CRM marks, including without limitation using or facilitating use of such word portion in connection with any Internet search engine, any Internet website, or any Internet browser, so as to direct or re-direct communications network traffic.

3.13 BUSINESS PRACTICES.

Partner will:

- (i) conduct business in a manner that reflects favorably at all times on the Kreato CRM Service and the good name, goodwill and reputation of Kreato;
- (ii) make no false or misleading representations with regard to Kreato or the Kreato CRM Service; and
- (iii) make no representations, warranties or guarantees with respect to the specifications, features or functionality of the Kreato CRM Service that are inconsistent with the literature distributed by Kreato.

3.14 PRESS RELEASES AND OTHER PUBLICITY.

During the term of this Agreement, Partner agrees that Kreato may issue press releases or make other public statements regarding and in promotion of Partner's participation as a Partner.

Partner may not issue any press release with respect to this Agreement or your participation in the Program without prior approval from Kreato;

4. Support

4.1 PARTNER SUPPORT OF CUSTOMERS.

Partner may provide Customers with assistance and support with the trial signup and initial configuration of the Kreato CRM Service by the Customer. **Partner shall direct any questions they are unable to answer to Kreato CRM' Sales department at sales@KreatoCRM.com.**

4.2 KREATO CRM SUPPORT OF CUSTOMERS.

Kreato will provide Customers with implementation, customization and technical support services for the Kreato CRM Service via email or other means. Except as otherwise expressly agreed, Partner will have no obligation to provide implementation, customization and support services to Customers.

5. Payments and Reports

5.1 PAYOUT AND PAYMENTS.

In consideration for Partner's participation in the Partner Program. subject to the terms set forth in Attachment A, 'Payout and Payments', and incorporated herein by reference, Kreato CRM will pay to Partner for each Action a Payout, which will be calculated as a percentage, ("Payout Rate"), of the monthly Net Revenue for each Action in which Partner has been identified by Customer as the Partner of Record. Payout payments to Partner will be made in accordance with the terms set forth in Attachment A, 'Payout & Payments'.

Payout Rate is subject to change at Kreato discretion.

5.2 TRACKING.

Kreato CRM utilizes a tracking system that will log Actions generated by Partner and revenue generated from those respective Actions. For the purposes of computing payment amounts owed by Kreato to Partner, Kreato CRM shall, in its sole discretion, use the figure(s) collected by its tracking system. In the

event Kreato disputes an Action or claims that an Action is invalid or non-viable, it shall return the disputed Action within thirty (30) business days of nonpayment of such Action along with a written explanation of Kreato' rationale for rejecting an Action. Partner will have ten (10) business days from the date of receipt of return of such Action to file an objection with Kreato. Kreato shall in good faith consider such objection and any documentation provided, but shall have final and binding authority in determining the total count of Actions for payment purposes.

5.3 REPORTS.

Partner will maintain complete and accurate accounting records in accordance with generally accepted accounting principles, documenting any transactions with Customers. If requested, Partner will promptly provide Kreato with a copy of records showing transactions entered into by Partner and Customers.

5.4 RIGHT OF SETOFF.

Kreato CRM may exclude from any payments earned by Partner hereunder

(i) any reasonable expenses incurred by Kreato in assisting with the closing that are not required to be incurred by Kreato hereunder, and (ii) any indebtedness owed by Partner to Kreato.

5.5 TAXES.

Partner is responsible for the payment of any taxes, fees, duties, and other governmental charges, and any related penalties and interest, arising from the payment of any amounts to Partner under this Agreement.

5.6 AUDIT.

During the term of this Agreement and for one (1) year thereafter, Kreato may, upon five (5) business days advance written notice to Partner, audit Partner for the purpose of verifying the information provided by Partner under this Agreement, and for the purpose of verifying that Partner is conforming to the terms of this Agreement. Any such audit will be conducted during regular business hours at Partner's facilities and will

not unreasonably interfere with Partner's business activities. If an audit reveals that Partner has underreported or misrepresented any reports due herein or that Partner has otherwise materially breached this Agreement, then Partner will pay Kreato' reasonable costs of conducting the audit in addition to any fees due to Partner's misrepresentation or material breach.

6. Confidentiality

6.1 USE AND DISCLOSURE RESTRICTIONS.

"**Confidential Information**" shall be defined as all information communicated by a party to the other pursuant to this Agreement, including, without limitation, all information, conclusions, reports, designs, plans, project evaluations, data, advice, business plans, trade secrets, pricing terms, customer lists and/or other documents. "Trade Secret" shall include, without limitation, any and all of Kreato CRM' software, programs, scripts and techniques, business plans, marketing techniques, marketing strategies, know-how, party's customers and information concerning its customers and suppliers, including customer contract terms, services provided, vendors used, and other confidential and proprietary information relating to party's customers, suppliers and marketing strategies. "Parties' Relationship" shall be defined as the period of time in which any business transaction has been entered into between the undersigned and Kreato, and is effective, including follow-up repeat, extended or renegotiated transaction, regardless of the success of the transaction or relationship. Each party will not use the other party's Confidential Information, except as necessary for the performance of this Agreement, and will not disclose such Confidential Information to any third party, except to those of its employees and subcontractors that need to know such Confidential Information for the performance of this Agreement, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein. Each party will use all reasonable efforts to maintain the confidentiality of all of the other party's Confidential Information in its possession or control, but in no event less than the efforts that it ordinarily uses with respect to its own confidential information of similar nature and importance. The foregoing obligations will not restrict either party from disclosing the other party's

Confidential Information or the terms and conditions of this Agreement: (i) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to enable it to contest such order or requirement; (ii) on a confidential basis to its legal or professional financial advisors; (iii) as required under applicable securities regulations; or (iv) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirers of such party.

6.2 EXCLUSIONS.

The obligations above will not apply to the extent any information:

- (i) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party;
- (ii) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality;
- (iii) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or
- (iv) is rightfully obtained by the receiving party from a third party without restriction on use or disclosure.

6.3 PROTECTION OF TRADE SECRETS.

Partner acknowledges that Kreato has spent significant time, effort and resources protecting its Trade Secrets. Any Trade Secret shall cease being a protectable trade secret if the information becomes part of the public domain or is rightfully disclosed to Partner outside of the scope of the performance of its duties under this Agreement, by a third party not under a duty of confidentiality to Kreato. In order to protect the Trade Secrets, and in consideration for the benefits provided to Partner, Partner hereby agrees that during the term of this Agreement and until the Trade Secrets cease being protectable trade secrets as set forth herein, or pursuant to applicable law, Partner will not, using or relying on any Trade Secret, directly or indirectly, call on, induce or solicit, on behalf of Partner or any third party, any current or prospective customer, merchant, vendor of Kreato for the purpose of

diverting, taking away or reducing the amount of current or prospective business of Kreato, or otherwise interfere with the relationship between Kreato, on the one hand, and its customers, merchants, vendors or suppliers, on the other hand.

6.4 NON-SOLICITATION OF PARTIES' PERSONNEL.

The parties acknowledge that each has contributed significant resources, time and effort toward the specialized training and development of its Personnel. Neither party will, for a period of two (2) years following the termination of this Agreement, whether initiated by Partner or Kreato, directly or indirectly, as an agent, executive, consultant, representative, stockholder, manager, partner, or in any other capacity, recruit or solicit any person who is at that time employed or engaged by the other party, to terminate his or her relationship with the other party, or otherwise interfere with the relationship between the other party and its Personnel. Employment which was initiated by indirect solicitation (such as general newspaper advertisements, employment agency referrals and Internet postings) shall not be considered a solicitation pursuant to this Section.

6.5 REASONABLENESS OF COVENANTS.

Parties acknowledge that the duration and restrictions set forth in this Agreement are reasonable in scope. If, at any time, the provisions of this Agreement shall be finally adjudicated to be invalid or unenforceable by a court of competent jurisdiction, the parties hereby agree that the court making this determination will have the power to reduce the scope, duration, or area of the term or provision to delete specific words or phrases, or to replace any invalid or unenforceable term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision; and that this Agreement will be enforceable as so modified.

6.6 ENFORCEMENT OF AGREEMENT;

INJUNCTIVE RELIEF; ATTORNEYS' FEES AND EXPENSES.

Partner acknowledges that violation of this Agreement will cause immediate and irreparable damage to

Kreato, entitling it to injunctive relief. Partner specifically consents to the issuance of temporary, preliminary, and permanent injunctive relief to enforce the terms of this Agreement. In addition to injunctive relief, Kreato is entitled to all money damages available under the law. If Partner violates this Agreement, in addition to all other remedies available to Kreato at law, in equity, and under contract, Partner agrees that it is obligated to pay all of Kreato costs of enforcement of this Agreement, including reasonable attorneys' fees and expenses.

7. Proprietary Rights

7.1 OWNERSHIP OF KREATO CRM SERVICE.

The Kreato CRM Service and all the intellectual property rights therein are and will remain the sole and exclusive property of Kreato and its licensors. Partner's rights in the Kreato CRM Service are limited to those expressly granted herein. Kreato CRM reserves all other rights, title and interest in and to the Kreato CRM Service not expressly granted to Partner under this Agreement.

7.2 PARTNER'S DUTIES.

Partner will use its reasonable efforts to protect Kreato CRM' intellectual property rights in the Kreato CRM Service and will promptly report to Kreato any infringement or other violation of such rights of which Partner becomes aware.

7.3 RETAINED RIGHTS.

All rights that are not expressly granted to Partner herein are retained by Kreato, including without limitation, the rights

- (i) to market the Kreato CRM Service(s) either directly or indirectly through third parties,
- (ii) to discontinue developing, producing, licensing, or distributing the Kreato CRM Service(s), and
- (iii) to modify, replace, or add to the Kreato CRM Service(s) in its discretion at any time.

8. Representations And Warranty

8.1 WARRANTY.

Each party warrants that it has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on such party's behalf has been duly authorized and empowered to enter into this Agreement.

8.2 DISCLAIMER.

EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, Kreato DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS REGARDING THE KREATO CRM SERVICE AND ANY SERVICES PROVIDED BY KREATO CRM, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM KREATO CRM OR ELSEWHERE, WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

9. Indemnity

9.1 INFRINGEMENT INDEMNITY.

Partner will defend or settle, indemnify and hold Kreato CRM harmless from any liability, damages and

expenses (including court costs and reasonable attorneys' fees) arising out of or resulting from any pending or threatened third-party claim based on or otherwise attributable to:

- (i) Partner's gross negligence or intentional misconduct;
- (ii) any misrepresentations made by Partner with respect to Kreato CRM and the Kreato CRM Service; or
- (iii) any violation or breach of any obligation, representation or other term of this Agreement.

10 . Limitation of Liability

10.1 EXCLUSION OF DAMAGES.

IN NO EVENT WILL Kreato BE LIABLE TO PARTNER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR LOSS OF GOODWILL), OR THE COSTS OF PROCURING SUBSTITUTE PRODUCTS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE KREATO CRM SERVICE OR OUT OF ANY SERVICES PROVIDED BY Kreato HEREUNDER, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT THE LIABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

10.2 LIMITATION OF LIABILITY.

In no event will Kreato' total liability to Partner under this Agreement, from all causes of action and under all theories of liability, exceed the fees paid or owing to Partner pursuant to this Agreement.

10.3 FAILURE OF ESSENTIAL PURPOSE.

The parties have agreed that the limitations specified in this Section 10 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose. The parties further acknowledge and agree that Kreato has set its prices and entered into this Agreement in reliance upon the limitations of liability specified herein, which allocate the risk between Kreato and Partner and form a basis of the bargain between the parties.

11. Term and Termination

11.1 TERM.

This Agreement will begin on the Effective Date and, unless terminated earlier in accordance with its terms, will remain in effect for one year. ("Initial Term"). At the end of the Initial Term (and each Renewal Term thereafter, if any), this Agreement will automatically renew for a one (1) year term ("Renewal Term(s)", and collectively with the Initial Term, the "Term"), unless either party provides the other party with notice of nonrenewal at least thirty (30) days prior to the end of the then-current term.

11.2 TERMINATION.

Either party may terminate this agreement, at any time, in the event that the other party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days following notice thereof from the non-breaching party. Kreato may terminate this Agreement, at any time, for any reason or no reason with thirty (30) days prior written notice.

11.3 EFFECT OF TERMINATION.

Upon any termination of the Agreement:

- (i) all licenses granted to Partner by Kreato hereunder will automatically cease;
- (ii) Partner access to Partner Portal will terminate immediately
- (iii) Partner will immediately stop all representations that it is an authorized sales representative of Kreato CRM Services,
- (iv) within thirty (30) days of the date of Termination of this Agreement, Kreato will pay any accrued and outstanding payments owed to Partner as of the date of termination. In no event will Kreato be liable for any damages incurred by Partner for any termination of this Agreement. Sections 1, 3.2, 5, 6, 7.1, 7.3, 8, 9, 10, 11, and 12 contractual obligations survive termination of this agreement.

11.4 SURRENDER OF MATERIALS.

Upon termination of this Agreement and as directed by Kreato, Partner shall:

- (1) surrender and deliver to Kreato, at Partner's expense, all copies of the Confidential Information, Promotional Materials, Additional Promotional Materials and Email Templates provided by Kreato that are in the possession, control, or custody of Partner at the time of such termination, whether or not such materials were modified by Partner; or
- (2) destroy all copies of all Confidential Information, Promotional Materials, Additional Promotional Materials and Email Templates and certify such destruction in writing to Kreato CRM.

12. General

12.1 ASSIGNMENT.

Partner may not assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, or its rights or obligations hereunder without Kreato' express prior written consent. Any attempt to assign or transfer this Agreement, without such consent, will be null and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

12.2 GOVERNING LAW AND JURISDICTION.

This Agreement shall be construed, interpreted and governed by the laws of the State of Delaware exclusive of its conflict of law provisions. Any dispute arising out of this Agreement will be subject to the exclusive jurisdiction of courts in the State of Delaware.

12.3 AMENDMENT.

Kreato CRM reserves the right in its sole discretion to amend this Agreement by providing Partner with prior written notice thereof. If Partner does not wish to be bound by any such amendments, Partner may terminate this Agreement within thirty (30) days of receiving notice of such amendment by providing written notice of termination to Kreato.

12.4 SEVERABILITY.

If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

12.5 WAIVER.

The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

12.6 NOTICES.

Unless otherwise specified, all notices required or permitted under this Agreement shall be in writing, and any such notice shall become effective five (5) days after being deposited in the mail, certified or registered, with appropriate postage prepaid or, if delivered by hand, overnight courier, or in the form of a facsimile or email transmission, when receipt is confirmed. All communications will be sent to the addresses set forth above or to such other address as may be specified by either party to the other in accordance with this Section.

For the purposes of this agreement, following is the email, physical and postal address of Kreato:

partner@kreatocrm.com

Kreato Software, Inc.
340 S Lemon Ave Walnut, CA 91789 USA

12.7 FORCE MAJEURE.

Neither party will be responsible for any failure or delay in its performance under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, war, terrorism, riot, or acts of God.

12.8 RELATIONSHIP OF PARTIES.

The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties. Neither party will have the power to bind the other party or to incur any obligations on its behalf without the other party's prior consent.

ATTACHMENT A

PAYOUT AND PAYMENTS

Partner of Record:

Customer identifies the Partner of Record.

Referral Requirement:

Referral must be newly generated by Partner—not a current Kreato CRM Service user nor someone already included in Kreato CRM data base.

Your obligations as Authorized Sales Partner are:

Refer prospective leads to Kreato CRM by submitting lead details in Partner Portal.

After lead submission, you will have a lighter role to play in our sales process. Help us to engage with the customer personally throughout the sales life-cycle specifically at the initial stage.

- a) Provide introduction to Kreato CRM / Give overview presentation of Kreato CRM to the customer either online or onsite as preferred by the customer.
- b) Help the customer to sign up for Free Trial.
- c) Help the customer to register for the online demo session.
- d) Participate in the online demo session.
- e) Assist in following up the prospect to close the sales.
- f) Assist in following up subscription renewals in the next years.

Steps a, b and c (mentioned above) are the mandatory obligations to be fulfilled by the partner to become eligible for the payout under “Authorized Sales Partner” program.

Note:

- Personalized demo session will be conducted online by Kreato team.
- Implementation and product technical support (during trial & after sales) will be taken care by Kreato team.
- All customer payments are directly processed by Kreato.

Kreato CRM Authorized Sales Partner Program Terms & Conditions

Payout Rate:

- 30% of net revenue for the first 12 months of subscription.
- 15% of net revenue for the next continuous months of subscription following the first year.

Payout(s):

Payouts are earned on collected Net Revenue. Payouts are earned only if the Partner has been identified as the Partner of Record and satisfies above obligations for each referral.

Payments:

All customer payments are directly processed by Kreato.

Payments of Payouts are processed within thirty (30) days of closing of any calendar quarter for all Payouts earned for the previous quarter. Payments will be made via a wire transfer, bank check, or other methods as preferred by the Partner and accepted by Kreato.