

REFERRAL FEE AGREEMENT

Between

**[_____]
(COMPANY)**

and

**LOCAL FIRST ARIZONA FOUNDATION
(LFAF)**

for

GOOD FOOD FINDER COMMUNITY SUPPORTED AGRICULTURE (GFF CSA)

REFERRAL FEE AGREEMENT

THIS REFERRAL FEE AGREEMENT (the "Agreement") is made and entered into as of [____], 2020 (the "Effective Date") by and between Local First Arizona Foundation, an Arizona nonprofit corporation ("LFAF") and [____], an Arizona [____] ("Company").

BACKGROUND

WHEREAS, LFAF is a nonprofit organization in Arizona that is dedicated to creating innovative programs to build a more diverse and resilient Arizona economy;

WHEREAS, LFAF has created a preferred vendor referral service program ("GFF CSA"), whereby LFAF intends to connect Arizona businesses to qualified Arizona-based farms and food producers that match such business' evaluation criteria;

WHEREAS, Company is in the business of selling farm and food products (the "[Products/Services]"); and

WHEREAS, Company desires to enter into this Agreement in order to participate in GFF CSA, whereby LFAF shall introduce to Company any potential sales leads for the [Products/Services] (each a "Customer" and collectively, "Customers"), and LFAF desires to accept such an arrangement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, intending to be legally bound, hereby agree as follows:

1. Engagement.

(a) Company hereby engages LFAF, and LFAF hereby accepts such engagement to act as Company's non-exclusive referral source with respect to Company's sale of the [Products/Services] in Arizona during the Term, solely in accordance with the terms and conditions of this Agreement. Company may in its sole discretion engage any other person, membership group, alliance, company and the like thereof to sell the [Products/Services].

(b) LFAF makes no representation or warranty about the creditability or suitability of any Customer introduced to Company, and neither Company, nor any of its directors, officers or shareholders, should in any way rely on LFAF to perform any due diligence with respect to the creditability or suitability of any Customer.

(c) The prices, terms, and conditions under which Company offers or sells any [Products/Services] shall be determined by Company in its sole discretion. Company shall have the authority to control all discussions and negotiations regarding any proposed or actual offering or sale of [Products/Services]. Nothing in this Agreement shall obligate Company to

actually offer or sell any [Products/Services] or consummate any transaction with any Customer. Company may terminate any negotiations or discussions with any customer at any time prior to the actual sale of any [Products/Services] and has the right not to proceed with any sale of [Products/Services] without any liability or obligation to pay compensation to LFAF under Section 2 or otherwise.

2. Compensation.

(a) In consideration for the services rendered by LFAF hereunder, Company shall pay to LFAF compensation (the "LFAF Referral Fee") on all sales made by Company to each Customer introduced by LFAF through GFF CSA to Company hereunder at the rate of 4% of the Quarterly Sales (as defined hereunder).

(b) "Quarterly Sales" means total gross sales from product subscription services (does not apply to a la carte sales). The Quarterly Sales shall be calculated by Company and delivered to LFAF in a quarterly sales report (the "Quarterly Sales Report") within thirty (30) days after each ninety (90) day period in which Company sells the [Products/Services] to Customers introduced to Company by LFAF through GFF CSA, commencing as of the date of the first sale of the [Products/Services]. The Quarterly Sales Report shall contain a detailed breakout of the Quarterly Sales so that LFAF may confirm calculation of the LFAF Referral Fee.

(c) Company shall pay the LFAF Referral Fee within thirty (30) days of its delivery of the Quarterly Sales Report to LFAF pursuant to the terms hereof. All payments made hereunder shall be made in the form of a check payable to Local First Arizona Foundation. For the sake of clarity, no LFAF Referral Fee shall be owed hereunder for any sale to Customer if (i) Company notifies LFAF that Company had a previous relationship or contact with the Customer, provided that Company must notify LFAF of any such existing relationship prior to the introduction of the Customer by LFAF through GFF CSA, or (ii) the Customer is not introduced by LFAF to Company through GFF CSA.

3. Confidentiality. All non-public, confidential, or proprietary information of Company, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, and rebates, disclosed by Company to LFAF, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential," in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized by Company orally or in writing. Upon Company's request, LFAF shall promptly return all documents and other materials received from Company. This section shall not apply to information that is: (a) in the public domain; (b) known to LFAF at the time of disclosure; or (c) rightfully obtained by LFAF on a non-confidential basis from a third party.

4. Term and Termination.

(a) The term of this Agreement commences on the date of this Agreement and continues for a period of three (3) years, unless and until earlier terminated as provided

under this Agreement (the “Initial Term”). Company may renew this Agreement for additional one-year terms (each a “Renewal Term” and together with the Initial Term, the “Term”) by providing LFAF Notice of its intent to renew at least thirty (30) days prior to the expiration of the Initial Term or any subsequent Renewal Term, as applicable. If the Term is renewed for any Renewal Term pursuant to this Section, the terms and conditions of this Agreement during each such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal.

(b) At any time after eighteen (18) months of the date hereof, and prior to the end of the Term, either party may, in its sole discretion, terminate this Agreement by giving thirty (30) days’ written Notice to the other party (the “Termination Option”). Upon exercise of the Termination Option, this Agreement shall terminate thirty (30) days after the date the Termination Option was exercised (the “Early Termination Date”). All outstanding payments due hereunder become due and payable within thirty (30) days after the Early Termination Date.

(c) In addition to any remedies that may be provided in this Agreement, either party may terminate this Agreement with immediate effect upon Notice to the other party, if the other party: (i) fails to pay any amount when due under this Agreement and such failure continues for ten (10) days after the other party’s receipt of Notice of nonpayment; (ii) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

5. Duties and Responsibilities of Company.

(a) Cooperation with LFAF. Company shall provide LFAF with pertinent sales literature, samples, and other materials which are necessary to enable LFAF to fulfill its obligations hereunder.

(b) Payment to LFAF. Company shall compensate LFAF in accordance with Section 2.

(c) Customer Payment Collection. Company, in its sole and exclusive capacity and at its own expense, will be responsible for collecting all payments owed to it by Customers introduced by LFAF through GFF CSA. LFAF will not be responsible for assisting Company in collecting any such payments owed to Company by Customer.

(d) Equipment, Supplies, and Expenses. Company, in its sole and exclusive capacity and at its own expense, will provide all equipment, tools and supplies necessary to provide the [Products/Services] to Customers introduced by LFAF through GFF CSA. Company is further responsible for all expenses related to the provision of the [Products/Services] to such Customers.

(e) Issues and Complaints. Company, in its sole and exclusive capacity and at its own expense, will manage any issues or complaints with Customers introduced by LFAF through GFF CSA. In the event that a Customer introduced through GFF CSA directly notifies LFAF of an issue, LFAF will provide Notice of such issue to Company within a reasonable time.

6. Duties and Responsibilities of LFAF.

(a) Introductions. LFAF shall introduce Company to Customers through GFF CSA.

(b) Marketing and Promotion. LFAF shall use its reasonable efforts to market Company as a preferred vendor of a specific segment of [Products/Services] to potential Customers through GFF CSA. To facilitate LFAF's marketing efforts, Company agrees to assist LFAF with the creation and development of a co-branding presence online as well as all other applicable marketing materials. All joint marketing initiatives and use of the LFAF or Company names or trademarks will require prior approval of both LFAF and Company.

7. Independent Contractor. LFAF is an independent contractor of Company, and this Agreement shall not be construed to create any association, partnership, joint venture, employee, or agency relationship between LFAF and Company for any purpose. LFAF has no authority (and shall not hold itself out as having authority) to bind Company and LFAF shall not make any agreements or representations on Company's behalf without Company's prior written consent.

8. Notices. Notices permitted or required to be given hereunder shall be deemed sufficient if given by (a) registered or certified mail, postage prepaid, return receipt requested, (b) private courier service, or (c) email or facsimile addressed to the respective addresses of the parties at such addresses as the respective parties may designate from time to time ("Notices").

9. Governing Law. This Agreement shall be governed by the laws of the State of Arizona, without regard for conflicts of law principles.

10. Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be resolved in accordance with the procedures described in this Section, which shall be the sole and exclusive procedures for resolution of any such disputes.

(a) Negotiation. The parties shall try in good faith to settle the dispute through direct discussions or mediation. A good faith attempt at direct discussions or mediation shall be a condition precedent to the commencement of arbitration but is not a condition precedent to any court action for injunction or other interim relief pending the outcome of such discussions or mediation.

(b) Binding Arbitration. If the parties are unable to resolve the dispute by direct discussions or mediation in a timely manner (which, in any case, shall not exceed sixty (60) days from the first Notice of the dispute), the dispute shall be resolved through final binding arbitration in Phoenix, Arizona administered by Judicial Arbitration and Mediation

Services, Inc., in accordance with its Streamlined Arbitration Rules and Procedures or subsequent versions thereof (the "JAMS Rules"). The JAMS rules for selection of a single arbitration shall be followed, except that the arbitrator shall be experienced and licensed to practice law in the State of Arizona. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, and judgment upon the decision/award rendered by the arbitrator shall be final and binding and may be entered by any court having jurisdiction. The arbitrator shall apply applicable Arizona and/or Federal law.

(c) Waiver of Jury. Both parties expressly waive their respective right to a trial of any issue or claim by a jury or otherwise. The procedures described in this Section shall be the sole and exclusive means of resolving all disputes of claims arising under statutes, contract, tort, or otherwise.

(d) Costs. The costs incurred in connection with dispute resolution, including any mediator and arbitrator fees and expenses, shall be borne separately by the parties. Attorneys' fees may be awarded to the prevailing or most prevailing party at the discretion of the arbitrator.

11. Severability; Waiver. In the event any terms or provisions of this Agreement shall be held invalid, illegal and unenforceable in whole or in part, the validity, legality and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected thereby. The waiver by either party to this Agreement of a breach of any provisions of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach of the provision or any other provision of this Agreement nor shall it constitute the nullification of any other provision of this Agreement or the Agreement itself in its entirety.

12. Entire Agreement, Amendments, Assignment. This Agreement contains the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, expressed or implied, oral or written, with respect to the subject matter of this Agreement. This Agreement may not be altered, modified or amended except by a writing signed by both parties. This Agreement may not be assigned or modified without the written consent of the parties. In the event of an approved assignment, this Agreement shall be binding on such assigns and successors of the parties. The language of this Agreement will be deemed to have been approved by both parties, and no rule of strict construction will be applied against either party.

13. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same instrument and agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date set forth above.

COMPANY:

[_____]

LFAF:

Local First Arizona Foundation

Name:

Title:

Name:

Title: