

iObeya – Partner Referral Agreement

PLEASE READ THIS CAREFULLY. BY CLICKING “I ACCEPT” AND SUBMITTING A LEAD REGISTRATION FORM, YOU ARE AGREEING TO THE FOLLOWING TERMS AND CONDITIONS (THE “AGREEMENT”) GOVERNING YOUR PARTICIPATION IN THE IOBEYA REFERRAL PROGRAM (THE “PROGRAM”).

THIS AGREEMENT (the “**Agreement**”) is made between iObeya, Inc., (“**iObeya**”), and the person that submits a lead registration form via the iObeya website at www.iObeya.com (“**Partner**”). This Agreement is effective as of the date Partner first submits a lead registration form (the “**Effective Date**”). Capitalized terms are defined in Section 1 below.

Background

iObeya is in the business of, among other things, developing, marketing, licensing and supporting digital collaboration and visual management software. Partner is an independent consultant. iObeya seeks to expand the use of its Software through referrals of Leads from independent consultants. To induce consultants to refer their present and past clients to iObeya, iObeya will pay a Referral Fee to Partner for each Compensable Referral.

TERMS AND CONDITIONS

1. Definitions.

- a. “**Actively Participate**” means a Partner’s active engagement in the introduction of a Lead to iObeya through an in-person meeting, joint sales call, email or telephone introduction, and includes Partner’s continued support of iObeya throughout the sales process.
- b. “**Compensable Referral**” means a Qualified Referral that executes a subscription Software Agreement for a dedicated iObeya platform within six (6) months after the Referral Date.
- c. “**Lead**” means a prospective customer for the Software referred to iObeya by Partner, and registered with iObeya by means of a Lead Registration Form pursuant to this Agreement.
- d. “**Qualified Referral**” means a Lead that at the time of registration, (a) is not in iObeya’s CRM database, **or** (b) is in iObeya’s CRM database, but is not actively being pursued by iObeya. The foregoing notwithstanding, any Lead may be designated by iObeya as a Qualified Referral, subject to a reduced Referral Fee as may be mutually agreed to by Partner and iObeya. iObeya has complete and final authority, and sole discretion, to determine if a Lead is a Qualified Referral and its determination will be final, binding, and non-appealable.
- e. “**Referral Date**” has the meaning ascribed to such term in Section 2(c) hereof.
- f. “**Referral Fee**” means twenty percent (20%) of the Net License Fees received by iObeya (the “iObeya Referral Fee”) from the Qualified iObeya Lead during the first year of the iObeya License Agreement. If Partner is still actively working with the Qualified iObeya Lead and an iObeya License Agreement has not been executed before six (6) months from the date of acceptance the Partner will have the right to register the lead again resulting in another six (6) month window to allow for the execution of an iObeya License Agreement for a maximum of twelve (12) months of eligibility. “Net License Fees” are equal to the gross license fee payable by an end user pursuant to an iObeya License Agreement less (i) royalties payable to a third party; (ii) taxes payable to a government entity related to the transaction; and (iii) returns or credits; and with respect to licenses the iObeya Products, Net License Fees are equal to the amounts actually paid to iObeya for the initial 12 months of the term of the iObeya License Agreement less (i) royalties payable to a third party; (ii) taxes payable to a government entity related to the transaction; and (iii) returns or credits; however, if the initial term is less than 12 months, than the amount actually paid to iObeya.

- g. **“Receipt”** means that iObeya has actually received a document from Partner during its normal business hours. If a document is received outside iObeya’s normal business hours, the document will be deemed to be in Receipt at 9am on the next business day.
- h. **“Software”** means iObeya’s then current generally available software products.
- i. **“Software Agreement”** means a written agreement under which iObeya licenses its Software to a Qualified Referral.

2. Program Description and Rules.

- a. Partner can participate in this Program, only by accepting the terms of this Agreement by submitting a Lead Registration Form to iObeya via the iObeya website at www.iObeya.com. The foregoing notwithstanding, Partner may have a standalone Alliance Agreement with one or more relevant addenda that will govern participation in the Partner Referral Program.
- b. Leads are registered with iObeya only by completing the online Lead Registration Form and submitting it to iObeya. A Lead Registration Form must be completed for each specific deployment opportunity. For example, if a Lead has multiple divisions or locations and a Partner is working within more than one division or location, Partner must complete a Lead Registration Form for each specific and identifiable deployment opportunity.
- c. iObeya will have ten (10) business days from Receipt to review each Lead Registration Form to determine if the Lead named therein is a Qualified Referral. The date upon which a Lead registration is accepted by iObeya is the **“Referral Date”**.
- d. Partner will Actively Participate in support of iObeya throughout the sales process.
- e. Upon request, iObeya will provide Partner with status updates regarding Leads and Qualified Referrals.
- f. iObeya will pay a Referral Fee for each Qualified Referral that executes a subscription Software Agreement within six (6) months after the Referral Date. Amounts paid by a Qualified Referral for annual support, services, or other non-software license fees are not eligible for inclusion in the calculation of Referral Fees and Donations.
- g. Only one Referral Fee will be paid per Qualified Referral. Referral Fees will not be combined to increase the payout to Partner.
- h. iObeya reserves the right to increase the percentages used to calculate Referral Fees. Any such increase in percentages will not increase the maximum Referral Fee.
- i. Referral Fees will be paid within 30 days after the end of the calendar quarter in which iObeya receives a payment from a Compensable Referral pursuant to a Software Agreement.
- j. iObeya has complete and final authority, and sole discretion, to administer and interpret the Program.

3. Additional Provisions.

- a. iObeya may modify the Program and/or Lead Registration Form from time to time.
- b. iObeya reserves the right in its discretion to make any changes in the Software and Software Agreements, including pricing, and to refuse to enter into a Software Agreement with any Lead for lack of creditworthiness or for any other reason in its sole discretion.

- c. Each party understands this Agreement is non-exclusive. Without limiting the generality of the foregoing, Partner acknowledges that nothing in this Agreement prevents or limits iObeya from marketing and selling its Software or any other Software or service, in whole or in part, directly or indirectly, to any Leads or from appointing representatives, resellers, distributors and other marketing agents, without liability to Partner.
- d. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
- e. This Agreement will not be assigned or transferred by Partner without iObeya's prior written consent. Any purported assignment or transfer will be null and void.
- f. Each Party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts below. Any cause of action arising out of or related to this Agreement must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred. The address to which legal notices arising under or relating to this Agreement should be directed, the law that will apply in any lawsuit arising out of or in connection with this Agreement, and which courts can adjudicate any such lawsuit, depend on where You are domiciled as follows:

Your Domicile	IOBEYA Entity	Notification Address	Governing Law	Location of Courts/Arbitration Panel having exclusive jurisdiction
North America, South America, Latin America	iObeya, Inc.	4020 Lake Washington Blvd NE, Suite 312, Kirkland, WA 98033 USA legal@iObeya.com	Delaware	Delaware
Not Listed	iObeya SAS	1 Rue Galvani, Bâtiment D / 131 Rue de Paris, 91300 MASSY, France legal@iObeya.com	France	France

- g. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties with respect to the subject matter of this Agreement and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement. The foregoing notwithstanding, Partner may have a standalone Alliance Agreement with one or more relevant addenda that will govern participation in the Partner Referral Program.
- h. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Partner has no authority of any kind to bind iObeya in any respect whatsoever.

- i. All notices under this Service Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

- j. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE), WHETHER FORESEEABLE OR UNFORESEEABLE, REGARDLESS OF THE BASIS OF THE CLAIM AND EVEN IF THE PARTY OR A PARTY REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. IOBEYA'S CUMULATIVE LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, IS LIMITED TO USD \$1,000.00.