

C7 Data Centers Partner Program Terms

C7 is in the business of providing Data Center and managed services (the “Service” or “Services”), Partner desires to refer and forward potential customers and users of the Services, and C7 desires to authorize Partner to refer and forward to C7 potential subscribers and users of the Services subject to the terms and conditions of this Agreement.

In consideration of the mutual promises made in this agreement, the parties agree as follows:

1. DEFINITIONS

1.1 “Client Referral” means a prospect for the Services under that activity of Partner (as specified in Section 2 below), which results in the execution of a license agreement for the Services between C7 and a referred customer.

1.2 “Services” means the Data Center services and Managed Services for colocation

2. ACTIVITY

2.1 C7 hereby agrees to engage Partner to procure qualified Client Referrals for Services. The engagement of the Partner under this Agreement is non-exclusive and does not limit C7 from conducting its own marketing activities nor prevent or restrict C7 from engaging other persons to conduct marketing activities on behalf of C7.

3. QUALIFYING CLIENT REFERRALS AND COMMISSION

3.1 Prior to the commencement of any marketing activities on C7’s behalf, Partner will provide the Client Referral Information requested as part of the sign up process.

3.2 C7 shall pay Partner a commission (the “Commission”); on the initial sale made to a customer that the Partner refers to C7. The amount of the Commission shall be based on the monthly contract fee and the duration of the contract. the Referred Customer signs a Statement of Work (“SOW”), with the Commission fees as set forth in Paragraph 3.1.1.

3.3 The Commission paid on a SOW signed within 90 days of submitted referral shall be as shown below (not including any set up fees).

1 month’s contract fees	One year contract
-------------------------	-------------------

2 months’ contract fees	Two year contract
-------------------------	-------------------

3 months’ contract fees	Three year contract
-------------------------	---------------------

3.3.1 The total commission amount owed to Partner hereunder shall be payable on the last day of the month after the Service has been billed and payment received.

3.3.2 C7 shall be obligated to pay the Commission to Partner for a specific Referred Customer if, and only if, the following conditions are satisfied:

3.3.3 The Referred Customer is not a current customer of C7 or a customer who C7 has not, prior to the date of the referral, contacted and towards whom C7 has not, prior to Referring Party’s initial contact, already initiated sales and marketing efforts; and

3.3.4 The Service or Services ordered by Referred Customer have been installed, activated, and accepted by the Referred Customer.

3.4 In the event that the Referred Customer was referred to C7 from more than one authorized C7 referral agent, C7 will pay the Commission to the referring party who, in C7' sole determination, provided the most proximate, or recent, referral relative to the date the Referred Customer initiates the Service with C7.

3.5 Partner is not authorized to conduct any advertising, solicitation or other marketing on behalf of C7, and is to limit its contact to one-on-one conversations with authorized representatives of potential customers. Absent the advance written notice from C7 stating otherwise, C7 will be obligated to pay the Commission to Partner only if Partner makes direct contacts with the Referred Customer. Commissions shall not be due to Referring Party if a Referred Customer is referred through mass mailings and other forms of mass solicitations to potential customers of the Service.

4. LIMITATION OF AUTHORITY

4.1 Partner shall have no authority to propose or accept on behalf of C7 any offers with respect to any license agreement or other arrangement for the use of the Services, execute any license agreement, or to enter into any other transaction on behalf of C7.

5. RELATIONSHIP OF THE PARTIES

5.1 Partner is not, and shall not hold itself out as, the representative, servant, or employee of C7 for any purpose. Partner shall in all correspondence and other dealings relating directly or indirectly to the marketing of Services, indicate that it is acting as an independent contractor for purposes of licensing the of Services generally, and that it is a Partner of C7 with regard to the Services, with ownership of the Services remaining in C7. This Agreement creates no relationship of agency or joint venture between C7 and Partner, and the Parties hereby acknowledge that no other facts or relations exist that would create any such relationship between them, it being intended that each shall remain an independent contractor responsible for its own actions. Neither Party has any right or authority to assume or to create any obligation or responsibility on behalf of the other party except as provided herein or as may from time to time be provided by written instrument signed by both Parties.

5.2 Partner has no authority to, and shall not, incur any liability on behalf of C7 or in any way pledge or purport to pledge the credit of C7 or make any contract binding upon C7 without the prior approval in writing of C7.

6. INDEMNIFICATION

6.1 Partner shall defend, indemnify, and hold harmless C7 and all personnel of C7 from and against any and all damages, costs, liabilities and expenses incurred by reason of (i) any failure by Partner to comply with any covenant or agreement set forth herein; (ii) any claim brought by any Client Referral or customer of Partner as a result or in connection with any other arrangement or products which Partner may represent, (iii) any claim brought by any person or entity based on any promise, representation, or warranty given by Partner without C7's knowledge and prior written consent, with respect to the Services.

7. WARRANTIES AND LIMITATION OF LIABILITY

7.1 C7 MAKES NO WARRANTIES HEREUNDER, AND EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; IN NO EVENT WILL C7 HAVE ANY LIABILITY FOR ANY DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SERVICES.

8. PROTECTION OF PROPRIETARY INFORMATION

8.1 Referring Party acknowledges that the Proprietary Information is confidential and constitutes a valuable asset of C7 or of its third party licensor. Referring Party shall not use any Proprietary Information for any purpose not specifically authorized in this Agreement, shall hold such Proprietary Information in strict confidence, and shall not disclose any Proprietary Information to any third party.

8.2 Referring Party will limit access to Proprietary Information to those appropriately trained employees whose use of or access thereto is necessary to Referring Party's authorized use of the Proprietary Information. Referring Party has entered or will enter into appropriate written agreements with its employees to prevent the unauthorized use, disclosure or copying of Proprietary Information and shall take all reasonable precautions to protect and maintain the confidentiality of Proprietary Information, including at a minimum, those precautions Referring Party employs to protect its own confidential information, but not less than a reasonable degree of care. Referring Party agrees not to cause or permit the reverse engineering, reverse assembly or reverse compilation of the Proprietary Information for any purpose, or to otherwise attempt to derive source code from the Proprietary Information. Referring Party agrees not to use, or allow any third party to use, any Proprietary Information to aid in the development and/or marketing of any product or service similar to or competitive with the Proprietary Information. Referring Party shall not disclose, publish, display or otherwise make available to any person any of the Proprietary Information or copies thereof without the express prior written consent of C7.

8.3 Referring Party shall not duplicate, copy or reproduce any of the Proprietary Information, except with the prior written consent of C7. In the event of C7's authorization to make any such copies, Referring Party will keep records of the number and location of such copies and make such records available to C7. Referring Party shall not remove any copyright or proprietary rights notice included in any Proprietary Information and shall reproduce all such notices on any Proprietary Information which Referring Party may make.

8.4 All title, copyright and other proprietary rights to all Proprietary Information, furnished by C7 to Referring Party and in all copies made by Referring Party, and in all Derivative Works, shall be retained by C7 or by its third party licensor.

8.5 Except as expressly authorized in writing by C7, Referring Party shall not use the Proprietary Information to create Derivative Works. In the event that Referring Party is authorized by C7 to create Derivative Works, Referring Party shall inform C7 in writing of any Derivative Works created by Referring Party, and shall provide copies of all such Derivative Works to C7 immediately upon C7's request.

8.6 Any violation of this Section 9 shall be cause for immediate termination of this Agreement and all licenses issued hereunder, effective immediately upon Referring Party's notice from C7.

8.7 Referring Party's obligations under this Section 9 shall survive any termination or expiration of this Agreement.

8.8 Referring Party acknowledges and agrees that any breach of this Section 9 would cause irreparable harm to C7, and agrees that C7 shall be entitled, in addition to whatever remedies shall be available at law, to injunctive relief or other equitable remedies with respect to any such breach.

9. NON-COMPETE

9.1 Referring Party shall not solicit, for the purpose of diverting or taking away, or attempting to divert or take away, the business or patronage of any other clients, customers, or accounts, or prospective clients, customers or accounts, of C7.

10. SOLICITATION OF EMPLOYEES

10.1 For the term of this Agreement and for a period of twelve months after any expiration or termination of this Agreement, Referring Party agrees and affirms to refrain from any and all attempts to solicit or recruit the employees of C7 without the prior written approval of C7. This shall in no way, however, be construed to restrict, limit or encumber the rights of any employee granted by law.

11. TERM AND TERMINATION

11.1 The term of this Agreement shall begin on the date hereof and shall continue for one (1) year unless terminated according to the provisions herein.

11.2 Either party may terminate this Agreement at any time during the term of this Agreement by giving thirty (30) days prior written notice to the other party.

11.3 C7 may immediately terminate this Agreement upon breach of Sections 2, 3, 4, 5, 6, 8, 9, 10, 11 and 12.

11.4 Upon termination of this Agreement, both Referring Party and C7 shall be discharged from all remaining obligations arising from this Agreement; provided however, that notwithstanding the termination of this Agreement, the provisions of Sections 6, 8, 9, 10 and 12 shall survive.

12. GENERAL PROVISIONS

12.1 This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior oral and written agreements and understandings relating thereto. No representation, condition, understanding, statement of intention or agreement of any kind, oral or written, shall be binding upon the parties unless set forth or specifically incorporated herein. No waiver, alteration, modification, or cancellation of any of the provisions of this Agreement shall be binding unless made in writing and signed by the parties. The failure of either party at any time or times to require performance of any provision hereof shall in no manner affect the right at a later time to enforce such provision. No remedy referred to in this Agreement is intended to be exclusive, but each shall be cumulative and in addition to any other remedy referred to herein or otherwise available at law or in equity. Any provision of Partner's order which is in any way inconsistent with or in addition to the terms and conditions of this Agreement shall not be binding upon C7 unless C7 specifically accepts any such provision in writing.

12.2 Neither party shall be liable for any delays in the performance of any of its obligations due to cause beyond its reasonable control, including, but not limited to, fire, strike, war, riots, acts of any civil or military authority, acts of God, judicial action, unavailability or shortages of materials or equipment, failures or delays in delivery of vendors and suppliers or delays in transportation.

12.3 Partner agrees that C7 may, with prior written consent of Referring Party, not to be unreasonably withheld, use Referring Party's name and the nature or type of use of Services by Referring Party in C7 press releases, advertisements, and promotional materials.

12.4 In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or un-enforceability shall not affect any other provisions contained in this Agreement.

12.5 This Agreement shall be subject to and interpreted in accordance with the substantive laws of the State of Utah without regard to provisions relating to conflicts of laws.

12.6 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives, provided, however, that the rights, duties and privileges of Partner may not be assigned, sublicensed or otherwise transferred by it, in whole or in part, without the prior written consent of C7.