

REFERRAL PROGRAM AGREEMENT (Distributor or Referral Agent)

THIS REFERRAL PROGRAM AGREEMENT (the “Agreement”) is made and entered into by and between The Pandemic 101 Corporation with offices at Unit 14, 27 Northcrest Drive, London, Ontario (the “Corporation”) and with the Distributor or Referral Agent as hereinafter defined.

The Corporation and Distributor or Referral Agent are collectively hereinafter referred to as the “Parties” or individually as the “Party”.

RECITALS:

1. The Corporation holds the exclusive rights to the Web Site (as hereinafter defined).
2. The Corporation provides products and services through the Pandemic 101.com web site, including but not limited to business continuity, medical directives, infection disease control products, table top exercises, online training and access to antiviral medications and any other services or products available through the Web Site;
3. The Distributor or Referral Agent has developed strong relationships with businesses, associations and groups (the “Distribution Network”) which may be potential Referral Agents and/or Referred Clients (as hereinafter defined) of the Corporation and is interested in marketing and promoting the Web Site;
4. The Distributor will refer potential Referral Agents and/or Referred Clients to the Web Site. The Referral Agents will refer potential Referred Clients to the Website.
5. The Distributor or Referral Agent will be compensated solely based on the number of its Referred Clients who register and pay for the online training program;
6. The Corporation desires to engage the Distributor or Referral Agent and its Distribution Network to obtain the benefit of its relationships for the purpose of assisting the Corporation in marketing, promoting and attracting customers to the Web Site;

NOW THEREFORE, in consideration of the following conditions set forth in this Agreement, the Parties hereto agree as follows:

1. Definitions.

“**Confidential Information**” means all or part of certain new and useful developments, information and Trade Secrets which belongs to the Corporation and not generally known to the public and whether disclosed on, prior to or after the Effective Date;

“Distributor” means the person or organization, if any, that has referred the Referral Agent to the Web Site. A person or organization that represents itself as a Distributor has been retained by the Corporation to generate between 100-999 Referred Clients per month and has or will retain 25 Referral Agents. “Effective Date” means the date the Referral Agent accepted the agreement, being either the date stamped on the agreement by the server provided the agreement was accepted online or the date indicated on the signature page provided the agreement was accepted in person;

“Effective Date” means the date the Distributor accepted the agreement, being either the date stamped on the agreement by the server provided the agreement was accepted online or the date indicated on the signature page provided the agreement was accepted in person;

“Master” means the person, organization or the Corporation that has referred the Distributor to the Web Site. A person or organization that represents itself as a Master has been retained by the Corporation to generate more than 999 Referred Clients per month, Service Fees greater than one million dollars (\$1,000,000.00) per month, and has or will retain 25 distributors and/or referral agents;

“Referral Agent” means a person or organization that has been retained by the Distributor and who will or does generate less than 100 Referred Clients per month;

“Referral Code” means the system that tracks the Referred Clients. The Referral Code has the following five fields: Two (2) Digit Country Code – Two (2) Digit Province/State Code – Three (3) Digit Master Code – Three (3) Digit Distributor Code – Four (4) Digit Referral Agent Code. For greater clarity, a Master in the Province of Ontario, Country of Canada may have a Referral Code such as CA-ON-002-000-0000;

“Referral Fee” means the amount of commission paid to the Master, the Distributor and/or a Referral Agent, as the case may be, for a Referred Client as defined in paragraph 5.1 of this Agreement;

“Referral Team” means collectively the Master, the Distributor and all of the Distributor’s Referral Agents;

“Referred Client” means any person or organization who was introduced to the Web Site by the Referral Team and who registers and pays for the online training program;

“Service Fee” means the amount paid by the Referred Client to the Corporation for the online training program;

“Term” means as set out in section 4.1;

“Trade Secrets” means the whole or any portion or phase of any technical information, process, procedure, formula, design or improvement that is valuable and secret; and

“**Web Site**” means the web page or pages maintained by the Corporation that being www.pandemic101.com from which the Referred Client can register for the any or all of the products and services offered including, business continuity, medical directives, infection disease control products, table top exercises, on-line training course, access to antiviral medications and any other services or products available through the web page or pages.

2. Referral Team’s Services and Responsibilities.

2.1 **Best Efforts.** The Referral Team shall use its commercially reasonable efforts to assist and/or introduce the Web Site to potentially new customers and to market and promote the Web Site.

2.2 **Standards.** The Referral Team will maintain high standards of professionalism and will at all times comply with all applicable laws and regulation and refrain from any unethical conduct or any other conduct that tends to damage the reputation of the Corporation or the Web Site in marketing the Web Site.

2.3 **Marketing.** The Referral Team will be solely responsible for paying for all marketing programs and related expenses including but not limited to, registration fees, travel and hotel expenses, meals and staff costs as well as radio promotions, newsprints, advertisements or trade shows and public relations events.

2.4 **Recruitment.** The Referral Team shall promote the Web Site to potential Referral Agents. Any potential Referral Agent shall not become a member of the Referral Team without approval by the Corporation. The Referral Team agrees and acknowledges that any remunerations of any kind to any member of the Referral Team will be solely based on the number of Referred Clients generated by that team member. No member of the Referral Team will have to pay to be a member of the Referral Team.

3. The Corporation’s Obligations and Responsibilities

3.1 **Marketing Support.** As a means of assisting the Referral Team, the Corporation may, at its own discretion, from time to time, provide the Referral Team with creative and collateral content, in standard electronic or similar format, as well as graphics, banners and other marketing promotional and informative material about the Corporation and/or its Web Site. All public relations announcements, statements and releases referring to the Corporation and/or its Web Site must be approved in writing by the Corporation. The Corporation’s public relations representative will work directly with any public relations representative of the Referral Team as is needed.

3.2 **Support and Maintain Web Site.** The Corporation shall establish, host, support and maintain the Web Site through which it shall make available the online training course to the Referred Clients. The Corporation undertakes to provide and maintain the

Web Site for the Term, or for any extended Term of this Agreement. The functionality of the Web Site shall allow the Referred Client and prospects to:

- (i) register for the online training course;
- (ii) purchase a Pandemic 101 Self Directed Exercise or a Facilitated Pandemic 101 Exercise.
- (iii) purchase Infectious Disease Control Products, subject to their availability. The Corporation does not make any guarantees, representations or warranties as to the availability of any product; and
- (iv) purchase antiviral medications, subject to their availability, including but not limited to, Tamiflu. The Corporation does not make any guarantees, representations or warranties as to the availability of any product; and
- (v) link seamlessly to designated Corporation offerings.

3.3 Discontinuance of Web Site. The Corporation may not discontinue the Web Site without giving the Referral Team thirty (30) days' prior written notice

3.4 Right to Use Trade Name. Subject to section 3.1, the Corporation grants to the Referral Team the right to use the Corporation's name, logos, trade names and trademarks solely for the purpose of promoting the Web Site. However, the foregoing, together with any related goodwill, shall remain the exclusive property of the Corporation. The Referral Team will not take any action that jeopardizes or challenges the Corporation's proprietary rights therein, or acquire any rights, in the Corporation's name, logos, trade names and trademarks, except the limited use rights set out in this Agreement.

3.5 Warranties.

- (i) The Corporation warrants that it either owns or has obtained the rights to the Web Site.
- (ii) The Corporation represents and warrants that the Web Site, including the documentation, does not infringe, misappropriate or otherwise violate any patent, copyright, trademark, trade secret or other proprietary right of any third party.

3.6 Intellectual Property Ownership. Title to and ownership of any material developed by the Corporation for use with the Referral Team as part of this Agreement, whether in machine-readable or printed form, including but not limited to the website, software,

source code, copyright, site content, course curriculum, data base, customer lists and student lists (collectively the “IP”), shall be deemed the exclusive property of the Corporation.

3.7 Changes to the Referral Fee. The Corporation reserves the right to make prospective changes to the Referral Fee at any time and at its sole discretion upon 90 days written notice to the Referral Team.

3.8 Support Orders. It is understood by the parties that the Corporation will be solely responsible for implementing and supporting the Corporation’s services and products, including but not limited to, infection disease control products, table top exercises, on-line training course, medical directives and access to antiviral medications. The Corporation intends to maintain its web-based products or services but makes no guarantee, representation or warranty with respect to the availability of such products.

3.9 Acceptance or Rejection. The Corporation in its sole discretion and without incurring any liability to the Referral Team or the applicable prospective customer either for payment of an Referral Fee or otherwise:

- (i) may refuse or reject any order;
- (ii) establish the terms and conditions upon which will be considered an order;
- (iii) may cancel or permit cancellation of any such order after acceptance thereof; and
- (iv) grant such allowances or concession to the order as it may deem proper. Neither the Referral Team nor any of its officers, agents, representatives or employees acting for or on its behalf will under any circumstances be or hold themselves out to be, servants, agents, or employees of the Corporation. The Referral Team will have no authority to accept orders for any products or services on behalf of the Corporation.

4. Term and Termination

4.1 Term. This Agreement shall remain in full force and effect for a term of twelve (12) months, commencing on the Effective Date and may be automatically renewed unless it is terminated by either party pursuant to this Agreement.

4.2 Termination. If either Party breaches a material provision of this Agreement, the other Party may terminate this Agreement upon fifteen (15) days written notice.

5. Fees; Payment

5.1 **Referral Fee.** The Referral Fee is based on a certain percentage of the gross Service Fee received by the Corporation based on the following formula:



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Summary of New Commission Structure (effective February 26)

Partner level	On-line training	IC Products	Tamiflu
M Distributor	5%	0.5%	0.5%
Distributor	10%	0.5%	0.5%
Referral Agent	15%	1.0%	1.0%

Examples Listed Below

Service #1:

Pandemic 101™ On-line Pandemic Awareness Training	Percent of gross Service Fees payable to Master	Percent of gross Service Fees payable to Distributor	Percent of gross Service Fees payable to Referral Agent
Master sells directly to Referred Client (no Distributor or Referral Agent)	30%	0%	0%
Master sells to Referred Client through a Distributor (no Referral Agent)	5%	25%	0%
Master sells to Referred Client through a Distributor and a Referral Agent	5%	10%	15%
Master sells to a Referred Client through a Referral Agent (no Distributor)	15%	0%	15%

Product #1:

Pandemic 101™ Infectious Disease Control Products (gloves, masks, sanitizers etc.)	Percent of gross Service Fees payable to Master	Percent of gross Service Fees payable to Distributor	Percent of gross Service Fees payable to Referral Agent
Master sells directly to Referred Client (no Distributor or Referral Agent)	2%	0%	0%
Master sells to Referred Client through a Distributor (no Referral Agent)	0.5%	1.5%	0%
Master sells to Referred Client through a Distributor and a Referral Agent	0.5%	0.5%	1.0%
Master sells to a Referred Client through a Referral Agent (no Distributor)	1.0%	0%	1.0 %

Product #2:

Antiviral Medications	Percent of gross Service Fees payable to Master	Percent of gross Service Fees payable to Distributor	Percent of gross Service Fees payable to Referral Agent
Master sells directly to Referred Client (no Distributor or Referral Agent)	2%	0%	0%
Master sells to Referred Client through a Distributor (no Referral Agent)	0.5%	1.5%	0%
Master sells to Referred Client through a Distributor and a Referral Agent	0.5%	0.5%	1.0%
Master sells to a Referred Client through a Referral Agent (no Distributor)	1.0%	0%	1.0 %

5.2 **Fees.** The Corporation shall pay the Master, Distributor and/or Referral Agent, as the case may be, the Referral Fee on the 15th day of the month for Service Fees received for the previous month.

- 5.3 **Payment.** The Referred Client shall pay the Corporation and the Corporation shall be responsible to collect the Service Fee and pay the Referral Fee to the Master, Distributor and/or Referral Agent, as the case may be.
- 5.4 **Removal as a Distributor.** In the circumstances where the Distributor's Referred Client base decreases to less than one hundred (100) Referred Clients per month the Corporation may choose to terminate this Agreement.
- 5.5 **Removal as a Referral Agent.** In the circumstances where the Referral Agent's Referred Client base decreases significantly the Corporation may choose to terminate this Agreement.

6. Infringement Indemnity and Limitation on Liability

6.1 Infringement Liability. The Corporation shall, at its own expense, indemnify, defend and hold the Referral Team, its employees, officers and agents, harmless against any claim, demand or action based upon the allegation that use by the Referral Team of the Web Site, or services provided hereunder, infringes any patent, copyright, trademark, trade secret or other intellectual property right of a third party and shall accordingly pay all costs, damages and legal fees, provided that:

- (i) the Corporation is notified promptly in writing of the claim and given authority, information and assistance for the defense of such claim;
- (ii) the Corporation has the sole control of the defense or settlement negotiations; and,
- (iii) the Referral Team reasonably co-operates with the Corporation at the Corporation's expense, in defending or settling such claim.

Should the Web Site become, or in the Corporation's opinion, likely to become the subject of such a claim, demand or action, the Corporation will have the option, at its expense, to obtain for the Referral Team the right to continue using the same; or replace or modify the Web Site to make it non-infringing, provided that such modification or replacement shall not provide substantially the same functionality.

6.2. Limitations of Liability.

- (i) The Parties agree that, in regard to any and causes of action arising out of or relating to this Agreement, including, but not limited to, claims of negligence, breach of contract or breach of warranty, in no event will either party be liable for special, incidental or consequential damages (even if such party has been advised

of the possibility of such damages).

(ii) EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 6.1, THE TOTAL LIABILITY OF THE CORPORATION FOR DAMAGES OR ALLEGED DAMAGES UNDER THIS AGREEMENT, WHETHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), SHALL NOT EXCEED IN THE AGGREGATE THE SERVICE FEES PAID FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE LIABILITY HEREUNDER, PROVIDED THAT FOR GREATER CERTAINTY, THE SOLE RECOURSE OF THE REFERRAL TEAM WITH RESPECT TO ANY CRITICAL DEFECT, MAJOR DEFECT OR MINOR DEFECT SHALL BE AS SET FORTH HEREIN.

(iii) THE TOTAL LIABILITY FOR THE REFERRAL TEAM FOR ANY DAMAGES CLAIMED UNDER THIS AGREEMENT, WHETHER IN TORT, CONTRACT OR OTHER ACTION, SHALL NOT EXCEED THE AMOUNTS PAID TO THE REFERRAL TEAM IN THE TWELVE MONTH PERIOD IMMEDIATELY PRIOR TO THE ASSERTED CLAIM.

7. Status of the Parties. In performing its respective duties under this Agreement, the Referral Team will be operating as an independent contractor. Nothing contained herein will in any way constitute any association, partnership, employment arrangement or joint venture between the Parties hereto, or be construed to evidence the intention of the Parties to establish any such relationship. Neither Party will have the power to bind the other Party or incur obligations on the other Party's behalf without the other party's prior written consent. The Referral Team agrees to be solely responsible for all costs related to its performance under this Agreement.

8. Miscellaneous.

8.1 Confidentiality. The Referral Team promises to keep Confidential Information a secret. Referral Team will not disclose the Confidential Information to any other person, business, partnership or other entity. Referral Team will not use or derive any direct or indirect benefit from the Confidential Information without the Corporation's prior written consent. Referral Team will not reproduce the Confidential Information, including any papers or drawings or other items supplied by the Corporation that disclose the Confidential Information, unless authorized by the Corporation in writing. Referral Team will return all such items to the Corporation immediately upon request.

8.2 Governing Law and Jurisdiction. The laws of the Province of Ontario shall govern this Agreement.

8.3 Severability. If for any reason any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining

provisions of this Agreement shall remain in full force and effect.

8.4 Counterparts. This Agreement may be executed in two or more counterparts, and each executed counterpart shall be considered as the original.

8.5 Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and representatives.

8.6 Notices. Any Notice which either party hereto may be required or permitted to give to the other party shall be in writing, and may be delivered personally, by private express courier, by registered, express or certified mail with postage prepaid, or by fax, subject to verbal confirmation that such fax was received, utilizing the address and facsimile information contained on the signature page hereto. Either party to this Agreement may change its address for purposes of receipt of Notice by providing written Notice of such future change, utilizing the procedures stated herein.

8.7 Further Actions. Each of the parties agrees that it shall hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are consistent with the terms hereof.

8.8 Assignment. Neither party shall have the right or ability to assign, transfer, or subcontract any obligations under this Agreement without the written consent of the other.

8.9 Entire Agreement. This Agreement and the Schedule attached hereto, constitutes the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior understandings or agreements between the Parties with respect to such subject matter. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

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THE PANDEMIC 101 CORPORATION

Per: 

Name: Todd Wahby

Title: Vice President of Operations