

Contently Referral Program Terms of Use

Last updated November 16, 2016

BY CLICKING THE “I ACCEPT” BUTTON, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE “AGREEMENT”) GOVERNING CONTENTLY’S REFERRAL PROGRAM. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY.

1. QUALIFIED REFERRALS, COMMISSIONS

- a. **Referral Procedure.** You will use the web form to refer potential customers (each a “Referral”) to Contently for potential purchase of Contently’s platform and/or services (the “Services”). Target’s may be other businesses or entities that you have a relationship with or could be affiliates or divisions of yours. When a Target is directed to Contently via this form then we will make reasonable efforts to review the information in the form within ten (10) business days to determine if the Target is a current Contently customer or prospect and if we believe that the Target represents a viable opportunity for us. If the Target is not a current Contently customer or prospect and we believe that there is a viable opportunity, we will accept the referral and notify you of our acceptance by email (hereinafter an “Accepted Target”). Otherwise, we will reject the referral and will let you know our reasons for rejection.
- b. **Acceptance.** Once Contently has accepted a Target we will ask for your cooperation and assistance in pursuing the opportunity. We expect that you will provide us with reasonable assistance in the sales cycle. For example, we may ask you to participate in – among other things - joint sales calls, lead referrals and introductions to key decision makers within the Accepted Target’s organization.
- c. **Qualified Referrals.** As long as you have fulfilled your obligations in paragraphs 1 and 2 above, if Contently enters into a written agreement with the Accepted Target (a “Customer Agreement”) within six (6) months of the date that the referral was accepted by us, then within thirty (30) days of our receipt of payment from the Target, Contently will provide you with the referral commission described below. Of course, Contently is not obligated to enter into any agreement with a Target and shall do so in its sole discretion.
- d. **Commissions.**
 - I. **Referral Fees.** Referral commissions shall be applied as a credit to Your Contently platform account (“Account”) in connection with your own separate agreement with Contently for use of Contently’s Services (“Your Services Agreement”). Referral commission credits will be applied against content creation charges in your Account and cannot be converted into cash or other property.
 - II. **Referral Amount.** The amount of the referral commission shall be equal to ten percent (10%) of the committed net Platform Fees (i.e., committed gross Platform Fees less sales commissions and taxes) Contently receives from the Accepted Target under the first executed Customer Agreement with such Accepted Target. Please note that referral commissions are not payable on fees received by Contently for any third party products and services (even if we provide them directly to the Accepted Target). All determinations related to pricing shall be determined by Contently in its sole discretion.
 - III. **Associated charges.** You shall be responsible for payment of all taxes, duties, government charges and other like charges levied on the Referral Fees, and You shall indemnify, defend and hold Contently harmless from and against any claims arising out of or relating to all charges emanating from Contently’s payment of Referral Fees.

2. GENERAL

- a. **Assignment.** You may not assign your rights hereunder to any other party without Contently’s prior written consent.

- b. **Limited Warranty.** Because we provide warranties directly to our customers, we don't make any warranties to you regarding any of our Services. Contently retains all rights to our Services, you retain all rights to your own products and services, and neither of us grants the other any rights to any of our respective property. In all cases under the Program we will be acting as independent contractors; you will not be considered an agent or representative of Contently, so we must insist that you do not make any representations on our behalf. Neither party will be liable to the other party for any incidental, consequential or other special damages, and - except for a breach of the confidentiality provisions set forth below in paragraph 2.c - in no event will either of us have liability to the other in excess of the referral incentives to which you are entitled as described in this letter.
- c. **Confidential Information.** Each party acknowledges that it may receive valuable trade and business secrets and other proprietary and confidential information, including, without limitation, information about the other party's business, products, equipment, software products, techniques and practices (collectively, "Confidential Information") (for purposes of this paragraph 6, the party receiving Confidential Information shall be referred to as the "Recipient" and the party disclosing Confidential Information shall be referred to as the "Discloser"). The Recipient shall, and shall cause its employees and agents to, strictly maintain the confidentiality of the Confidential Information and not disclose, disseminate or otherwise give Confidential Information to any other person, firm, organization or third party, except for an employee or agent of Recipient who has a reasonable need to obtain access and who has agreed in writing to not disclose, and not to use for any other purpose, the Confidential Information. Notwithstanding the foregoing, the obligations of confidentiality set forth in this paragraph 2.c with respect to Confidential Information shall not apply to any information that: (i) is or becomes publicly known without violation by Recipient; (ii) is already known to Recipient without restrictions at the time of its disclosure by Discloser, as evidenced by the written records of Recipient; (iii) after its disclosure to Recipient by Discloser, is made known to Recipient without restrictions by a third party having the right to do so; or (iv) is legally required to be disclosed by Recipient pursuant to a judicial order from a court of competent jurisdiction (provided that Recipient promptly informs Discloser of the requirement and affords Discloser a reasonable opportunity to contest the required disclosure).
- d. **Intellectual Property.** This letter agreement confers no right or license with regard to Contently's trade name, trademarks, service marks or logos or any related goodwill, all of which shall be the exclusive property of Contently. You will not use, register or attempt to register, or take other action with respect to any name, logo, trademark, service mark, or other identifier used anywhere in the world by Contently (or a mark confusingly similar thereto), except to the extent authorized in writing by Contently in advance.
- e. **Anti-Bribery Compliance.** In relation to the Program, You shall not make or offer to make any payment or gift directly or indirectly to any employee, officer, or representative of any governmental entity or instrumentality or to any foreign political party, any official of a foreign political party, or candidate, when such payment would constitute a bribe, kickback, or illegal payment under U.S. or applicable foreign laws.
- f. **Governing Law; Jurisdiction.** This letter agreement will be construed, interpreted, and applied in accordance with the internal laws of the State of New York (excluding its body of law controlling conflicts of law). All notices, requests and other communications under this letter agreement must be in writing, and must be mailed by overnight mail, registered or certified mail, postage prepaid and return receipt requested, or via email, addressed to such party at the address for such party set forth in the signature block below (and any party may change its address for notice by providing notice as set forth herein). This letter agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. If one or more provisions of this letter agreement are found to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this letter agreement will not be affected in any way thereby. A waiver of a party's breach of any provision of this letter agreement will not operate as or be deemed to be a waiver of that party's prior, concurrent or subsequent breach of that or any other provision of this letter agreement. This letter agreement may be amended or modified only with the written mutual consent of both parties. Nothing in this letter agreement shall limit or prevent either party from entering into similar agreements with any other entity. This letter agreement is the final, complete and exclusive agreement between the parties relating to

the subject matter hereof, and supersedes all prior or contemporaneous understandings and agreements relating to such subject matter, whether oral or written. This letter agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this letter agreement transmitted by facsimile, by electronic mail in “portable document format” (“.pdf”), or by any other electronic means which preserves the original graphic and pictorial appearance of the letter agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.