

## Clearent Partner Referral Service Agreement

This Referral Partner Service Agreement ("Agreement") is made on the 21st day of July, 2013 ("Effective Date") by and between Clearent, LLC, a Missouri limited liability company with offices at 222 South Central Ave, Clayton, MO 63105 ("Clearent"), and Mediajaw, with its principal offices at 3157 Executive Drive, Phone: (325-656-8927) San Angelo-Texas ("Partner").

Clearent offers payment processing services ("Merchant Services") to qualified sellers of goods and/or services ("Merchants") pursuant to a written agreement between Clearent and each such Merchant (a "Merchant Agreement"). Partner desires to refer Clearent's Merchant Services to Partner's current and prospective commercial customers. Therefore, the parties agree as follows:

**1. Merchant Solicitation:** Partner will locate and solicit Merchants to enter into Merchant Agreements with Clearent. Partner will complete and submit to Clearent referral forms with respect to potential Merchants. Partner will not use Clearent's name, trademarks or service marks in any promotional or marketing materials, nor will Partner promote Clearent's provision of Merchant Services in any way, without Clearent's prior written approval.

**2. Clearent Responsibilities:** Clearent will provide Merchant Services to Merchants who are approved by Clearent and with whom Clearent executes a Merchant Agreement. Partner will not have any liabilities, rights or obligations under the Merchant Agreements.

**3. Training and Support:** Clearent will provide (i) training and sales support to Partner as described in Exhibit A attached hereto and (ii) reasonable quantities of marketing materials to assist Partner with the performance of its obligations pursuant to Section 1 hereof. Clearent will also provide Partner with referral forms, applications for Merchant Services and Merchant Processing Agreements for use hereunder and will determine the pricing of Merchant Services.

**4. Merchant Acceptance:** Clearent retains the right to (i) review, and approve or disapprove, entering into Merchant Agreements with Merchants referred by Partner hereunder and (ii) terminate any Merchant Agreement

**5. Non-assignability/Exclusivity:** Partner will not transfer, assign or delegate any of its rights or duties hereunder, or any of its interests herein, without the prior written consent of Clearent. During the term of this Agreement, Partner will not, and will not permit its affiliates and their respective employees or independent contractors to, directly or indirectly, (i)

enter into any agreement or other relationship with any other person or entity that provides payment processing services similar to or competitive with those provided by Clearent or (ii) refer prospective Merchants (regarding such payment processing services) to any person or entity other than Clearent. During the term of this Agreement, and for a period of two (2) years following termination of this Agreement, Partner will not, and will not permit its affiliates and their respective employees or independent contractors to, directly or indirectly solicit any Merchant which executed a Merchant Agreement under this Agreement to transfer its payment processing to any third party or interfere with, disrupt or attempt to disrupt any present or prospective business relationship, contractual or otherwise, between Clearent, (on the one hand) and any Merchant, agent or employee of Clearent (on the other hand).

**6. Residuals:** Subject to Clearent's rights hereunder, on or about the 20<sup>th</sup> calendar day of each month, Clearent will credit, via ACH to a bank account designated by Partner, an amount (determined as of the last day of the prior calendar month) calculated as provided in Exhibit A attached hereto (the "Residual"). At the time of each remittance to Partner, Clearent will make available to Partner a statement detailing the computations used by Clearent in arriving at the Residual. Partner will receive such Residuals for as long as Partner is not in breach under this Agreement and Clearent receives revenue attributable to Merchant Agreements executed under this Agreement; provided, however, that the payment of Residuals will cease upon termination of this Agreement.

**6.1.** Clearent will pay residuals to Partner for the duration that the Merchant Services Accounts are being serviced by Clearent, regardless if Clearent terminates this agreement.

**7. Term:** This Agreement will become effective on the Effective Date, and will remain in effect for a period of three (3) years from the Effective Date (the "Initial Term"). This Agreement will automatically renew for additional successive one (1) year periods (each a "Renewal Term") unless terminated earlier in accordance with the provisions of this Agreement. Either party may terminate this Agreement, effective at the end of the Initial Term or any Renewal Term, upon prior

Initials: \_\_\_\_\_ (Clearent)

Initials: \_\_\_\_\_ (Partner)

**Clearent Partner Referral Service Agreement**

written notice of termination to the other party at least 120 days prior to the end of the Initial Term or the applicable Renewal Term. In addition, either party may terminate this Agreement, upon written notice thereof to the other party, in the event (i) the other party fails to pay, when due, any amount due under this Agreement and such failure is not cured within ninety (90) days after written notice thereof has been sent to the non-paying party or (ii) the other party fails to observe any material obligation specified in this Agreement (other than an obligation to pay as described above) and such failure is not cured within thirty (30) days after written notice thereof has been sent to the breaching party.

**8. Indemnification:** Notwithstanding anything to the contrary herein, Partner will indemnify and hold Clearent, its affiliates and their respective employees and agents harmless from and against any and all claims, demands, losses (financial or otherwise), damages, liabilities, costs, fees, increased taxes or expenses (including without limitation, court costs and reasonable attorneys' fees), which may be incurred or which may be claimed by any person as a result of (i) acts or omissions of Partner, its employees or independent contractors relating to the exercise of, or the failure to exercise, Partner's obligations under this Agreement (including, without limitation, any misrepresentation, fraud, negligence or willful misconduct), (ii) any failure by Partner, its employees or independent contractors to comply in all respects with the bylaws, rules and regulations of any payment method provider (such as Visa, MasterCard, American Express, Diners Club, Discover or other credit or debit card/account provider) whose payment method is accepted for processing pursuant to the Merchant Agreements (collectively, "Rules") and all applicable laws and regulations, (iii) any failure by Partner, its employees or independent contractors to comply in all respects with any policies or procedures of Clearent previously communicated to Partner or (iv) any breach of this Agreement or any other agreement between Partner (on the one hand) and any Merchant or Clearent (on the other hand).

**9. Liability:** The total cumulative liability, if any, of Clearent for any and all events, acts, omissions, claims, costs, damages or expenses of any kind or nature whatsoever arising under or in connection with this Agreement, whether arising by negligence or other tort, contract, willful misconduct or otherwise, will not exceed, in the aggregate, an amount equal to the greater of (i) the amount of any Residuals paid by Clearent to Partner for the preceding three (3) month period, measured from

the date the liability accrues, or (ii) \$5,000. In no event will Clearent be liable for incidental, indirect, special, punitive or consequential damages.

**10. Conduct of Business.** Partner will, and will cause its employees and independent contractors to, conduct business and perform Partner's obligations under this Agreement (i) in an ethical and professional manner consistent with the then current policies and procedures of Clearent, (ii) in such a way so as not to cause Clearent to violate the provisions of any agreement between Clearent and any Visa/MasterCard member financial institution and (iii) in compliance with the Rules and all applicable laws and regulations. Upon request from time to time, Partner will promptly provide Clearent and appropriate regulatory agencies with access to Partner's and its employees' and independent contractors' facilities and information so they may conduct financial and procedural audits to confirm compliance with this Agreement, the Rules and applicable laws and regulations.

**11. Confidentiality.** Partner will, and will cause its employees and independent contractors to, hold all information disclosed or otherwise made available by Clearent, including, without limitation, the terms of this Agreement and data and information related to Merchants and cardholders, in strict confidence and will not, and will not permit its employees or independent contractors to, disclose, distribute or disseminate such data and information to any third party. In addition, Partner will fully comply with all privacy and security requirements under the Rules and applicable laws and regulations, including, without limitation, under the Payment Card Industry ("PCI") Data Security Standard.

**12. Notice.** All communications under this Agreement will be in writing and will be delivered in person or by mail courier, return receipt requested, addressed to the addresses specified in the opening paragraph of this Agreement and to the attention of that party's President. The parties may, from time to time, designate different persons or addresses to which subsequent communications will be sent by sending a notice of such designations in accordance with this Section 12.

**13. Entire Agreement:** This Agreement, including Exhibit A which is incorporated by reference, sets forth the entire understanding of the parties relating to its subject matter, and all

Initials: \_\_\_\_\_ (Clearent)

Initials: \_\_\_\_\_ (Partner)

**Clearent Partner Referral Service Agreement**

other understandings are superseded. This Agreement may not be amended except in a writing executed by both parties.

**14. Severability:** If any provision of this Agreement is illegal, the invalidity of such provision will not affect any of the remaining provisions, and this Agreement will be construed as if the illegal provision is not contained in this Agreement. This Agreement will be deemed modified to the extent necessary to render enforceable the provisions hereunder, and to comply with the Rules.

**15. No Waiver of Rights.** No failure or delay on the part of any party in exercising any right under this Agreement will operate as a waiver of that right, nor will any single or partial exercise of any right preclude any further exercise of that right. Clearent has the right to off set from any amount owed by Clearent to Partner pursuant to this Agreement or otherwise any amount owed by Partner to Clearent pursuant to this Agreement or otherwise.

**16. Successors and Assigns.** This Agreement will inure to the benefit of and will be binding upon the parties and their respective permitted successors and assigns.

**17. Applicable Law.** The Agreement will be deemed to be a contract made under the laws of the State of Missouri, and will be construed in accordance with the laws of Missouri without regard to principles of conflicts of law.

**18. Independent Contractors.** Clearent and Partner will be deemed to be independent contractors and will not be considered to be agent, servant, joint venturer or partner of the other. Except to the extent specifically authorized in writing by Clearent, Partner will not act or attempt to act or represent itself, directly or by implication, as an agent of Clearent or in any manner assume or create, or attempt to assume or create, any obligation on behalf of, or in the name of, Clearent. Partner acknowledges and agrees that it shall not obtain, pursuant to this Agreement or otherwise, any right, title or interest in Clearent’s name, trademarks, service marks or other intellectual property, and

Partner shall not obtain any such rights by virtue of any limited use which might be permitted in the future and in writing by Clearent.

**19. Survival.** All agreements that by their context are intended to survive the termination of this Agreement including, without limitation, any monetary obligation of Partner owed to Clearent and Sections 5, 8, 9, 10, 11, 15 and 20 hereof, will survive termination of this Agreement.

**20. Attorney’s Fees.** If any court holds that a party has breached this Agreement, then the non-breaching party will be entitled to recover from the breaching party expenses incurred in enforcing the provisions of this Agreement, including, without limitation, reasonable attorneys’ fees and costs. The parties waive any right to a trial by jury in any litigation based upon or arising out of this Agreement.

**CLEARENT**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**PARTNER**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Initials: \_\_\_\_\_ (Clearent)

Initials: \_\_\_\_\_ (Partner)

## Clearent Partner Referral Service Agreement

### Schedule A - Partner Revenue & Expenses

All Signing Bonus & Residual payouts are based on Net Collected Revenue  
Gross Interchange Pass-Through + Dues & Assessments & Fees

#### PRICING AND FEES SCHEDULE

Partner: [Click here to enter text.](#)

<b>Residual Split to Partner</b>	<b>10%</b>
<b>Card Association Interchange, Dues, Assessments &amp; Fees</b>	
<b>Credit Card</b> – Qualified, Mid & Non-Qualified Sales	Pass-Through
<b>Off-Line Debit Card</b> – Qualified, Mid & Non-Qualified Sales	Pass-Through
<b>PIN Based Debit Network Fees</b> – All Sales	Pass-Through
<b>Bank</b> – Risk/BIN Sponsorship	0.00%
<b>Transaction and Authorization Fees</b>	
<b>Authorization, Capture, Host &amp; Settlement Fee</b> – IP	\$0.035
<b>Authorization, Capture, Host &amp; Settlement Fee</b> – Wireless, Dial or SSL	\$0.040
<b>American Express Transaction Fee</b>	\$0.025
<b>PIN Based Debit/EBT Transaction Fee</b>	\$0.05
<b>Address Verification Fee</b>	\$0.00
<b>Voice Authorization Fee</b>	\$0.65
<b>Batch Header Fee</b>	\$0.00
<b>MerchantLink/Micros</b> - Surcharge per item	\$0.039
<b>Monthly Service Fees and MID Maintenance</b>	
<b>Monthly Account on File Fee</b> – Includes Statements, Tech and Customer Service, TSYS MID Record, Terminal Downloads, Welcome Kits, Plates, Stickers, Class B Support, Terminal Overlays	\$6.00
<b>Monthly Compass Access</b>	\$1.95
<b>Monthly Minimum Fee</b> – \$35.00 billed to Merchant	\$0.00
<b>Annual Fee</b> - \$15.00 if charged to Merchant. DSR paid 100% of fee collected over \$15.00.	\$0.00
<b>Debit Access Fee, Statement Fee, Customer Service Fee, Maintenance Fee, etc.</b> - Such fees have no cost	\$0.00
<b>Annual Administration Fee</b> - \$29.95 billed to Merchant during third billing cycle. Cannot be marked up	\$29.95
<b>PCI Fee</b> - \$8.95 billed to Merchant per month for non-compliance	\$12.95
<b>Other Processing Products &amp; Services</b>	
<b>ACH Reject Fee</b> - \$25.00 billed to Merchant	\$10.00
<b>Chargebacks</b> - \$25.00 billed to Merchant	\$10.00
<b>Retrievals</b> - \$25.00 billed to Merchant	\$10.00
<b>Level III Data</b> - Surcharge	\$0.03
<b>Next Day Funding</b> - Surcharge	0.03%

All Merchant Services accounts (MasterCard/Visa/Discover) that are placed according to Section 1 will provide a monthly Residual to Partner equal to 10% of Net Collected Revenue.

For the purposes of this Agreement, Net Collected Revenue shall mean all fees collected from a Merchant less Schedule A costs above and all costs incurred by Clearent from third parties, but not limited to the Card Associations, affiliate partners or vendors.

\_\_\_\_\_  
 Authorized Partner Signature

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Clearent Signature

\_\_\_\_\_  
 Date

Initials: \_\_\_\_\_ (Clearent)

Initials: \_\_\_\_\_ (Partner)