

**Draft SHG, Inc./ XYZCO Business Development Agreement
February 2002**

This Business Development Agreement (“Agreement”) is made and entered into by and between XYZCO, a _____(state) corporation with its principal place of business located at _____ (“XYZCO”), and Sag Harbor Group Inc., with its principal place of business located at 201 Offices at Water St., Sag Harbor, New York 11963. (“SHG”) The effective date of this Agreement is _____ (“Effective Date”)

1. Referrals/ Retainer

SHG agrees to share leads on potential commercial customers, channel partners, service providers, and investors with XYZCO which it believes may be interested in XYZCO’s products, services or training. In exchange for this basic service (plus a minimum of _____ hours per month of advisory services) XYZCO will pay to SHG a monthly retainer of _____ for a minimum period of _____ at least _____ months.

2. Registration of Referrals.

SHG shall qualify these leads as potential commercial customers or channel partners of XYZCO, schedule the first meetings with key lead decision makers, and register such leads by submitting the attached Lead Registration Form to XYZCO. XYZCO reserves the right to reject, in its sole discretion, such leads presented to it within five (5) business days of its receipt of a Lead Registration Form, by written communication via FedEx to SHG, Inc. A lead not rejected within such time period shall be deemed accepted. A Lead Registration Form is attached. If the lead is not expressly rejected within the time period, it shall be referred to herein as a “Registered Lead.”

3. Compensation to SHG.

- (a) **Lead Investors.** If a Registered Lead produced by SHG or any of its member consultants results in a decision to invest in XYZCO within one (1) year of the initial meeting, SHG shall be entitled to receive as a cash finders fee the following cumulative percentages¹ of the gross proceeds of the gross investment by this Registered Lead:

Amount Raised	% Fee (Cumulative)
First \$1, 000,000	10 %, plus
\$1,000,001 - \$2,000,000	7.5%, plus
\$2,000,001- \$2 million	5%, plus
\$3,000,001 - \$3 million	4%, plus
\$4,000,001 -\$4 million	3%, plus
\$5,000,001 -\$10 million	2%, plus
>\$10 million	1%, plus

In addition, in the case of a successful investment, SHG would also be granted warrants in the company for a specified percentage of the company’s stock at its “pre-money” valuation, entitling SHG or its member consultants, at their option, to buy into the company at that price, according to amount raised, as follows:

¹ This means that if, say, SHG succeeds in raising \$2 million for XYCO, its success fee would 10% of the first \$1,000,000 plus 7.5% of the second \$1,000,000, or \$175,000.

Amount Raised	Warrants Granted (% of Equity, Cumulative)
First \$1, 000,000	5 %, plus
\$1,000,001 - \$5000,000	3%, plus
>\$5,0000,000	2%

- (b) **Lead Customers and Channel Partners.** If a Registered Lead results in a purchase, direct or indirect, of XYZCO's products, services, or support within a year after said Registered Lead was accepted by XYZCO, SHG will be entitled to receive the following percentages of the gross revenue received from the sale of XYZCO's products or services, including training, consulting, and maintenance payments, if any, directly or indirectly from this customer or channel partner during the following three (3) years:

Gross Sales Revenue (From Registered Lead Customer or Channel Partner)	% Fee (Cumulative)
First Year Sales	10 %, plus
Second Year Sales	5%

- (c) **Lead and Material Assistance.** When, in addition to meeting the requirements of Section 3(b) above, SHG also provides Material Assistance to XYZCO to complete its first sale to a new customer or channel partner, SHG will be entitled to receive an extra fee equal to five percent (of the gross revenue from the first year's sales of XYZCO's products and services, including training, consulting or other services, and 2.5% of the second year's sales. As used herein, "Material Assistance" shall include mutual sales calls, sales strategizing and other assistance as required. The specific requirements for Material Assistance, for individual sales opportunities, shall be incorporated herein as addenda and signed by authorized representatives of both parties.
- (d) **Payment of All SHG Fees.** SHG will receive the fees to which it is entitled within thirty (30) days after XYZCO receives the gross investment or revenue payments described above. In the event that investments or sales revenue is distributed over time, SHG will be entitled to its pro rata proportion of these investments or revenues within 30 days of their receipt by XYZCO or its agents
- (e) **Special Bonus for Early Closes**

For any "Lead" or "Material Assistance" that qualifies in accordance with section 3 above, closes on or before (date), and results in in more than \$X00.000 in gross revenue, SHG will qualify for an additional X% Fee.

4. Term of This Agreement.

The Term of this Agreement shall be one (1) year from the Effective Date, unless otherwise terminated by the parties in accordance with this Agreement.

5. Confidential Information.

This document shall be governed by the NDA signed between XYZCO and SHG Inc. Both parties also promise to keep the terms of this agreement confidential, as to third parties, including potential investors and channel partners, such confidentiality to be waived only by express written consent of both parties.

7. Severability.

Should any provision of this Agreement be held to be void, invalid or inoperative, such provision will be enforced to the extent permissible and the remaining provisions of this Agreement will not be affected.

8. Counterparts.

This Agreement may be executed in one or more counterparts, and shall be binding as to each signatory regardless of whether or when any other signatory may execute it. Signed copies of this Agreement sent via facsimile shall have the same legal effect as original documents.

9. Governing Law and Venue.

This Agreement shall be governed by the laws of the State of New York, U.S.A. as applied to contracts entered into and to be performed entirely within the State of New York, U.S.A.; the laws of the State of New York will govern, to the exclusion of the law of any other forum, without regard to the jurisdiction in which the action or special proceeding may be instituted. Except to the extent any dispute must be submitted to binding arbitration as required by this Agreement, the state or federal courts within New York, New York, will have exclusive jurisdiction and venue of all disputes arising in connection with or out of this Agreement or to otherwise enforce or seek damages for breach of this Agreement, and/or relating to the subject matter hereof; each party and all undersigned expressly agree to and do hereby submit to the jurisdiction and venue of such courts.

10. Arbitration.

Any controversy or claim arising out of or relating to this Agreement or the breach thereof, whether common law or statutory, including, without limitation, claims asserting violations of US antitrust laws, will be settled exclusively by binding arbitration in New York, New York, using a single arbitrator, and as follows:

(a) The arbitrator will apply the internal law of the State of New York, except that the arbitrator will not have the power to alter, modify, amend, add to or subtract from any term or provision of this Agreement, or to grant any punitive damages, or injunctive relief, including, without limitation, interim relief, of any nature. Judgment on the award of the arbitrator may be entered by any court having jurisdiction to do so.

(b) The failure or refusal of either party to submit to arbitration as required by this Agreement will constitute a material breach of this Agreement. If judicial action is commenced in order to compel arbitration, and if arbitration is in fact compelled, the party that resisted arbitration will be required to pay to the other party all costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred by the party to compel arbitration.

(c) If equitable relief is sought, including injunctive relief, by a party hereto for a breach of this Agreement, the non-breaching party may, in its sole discretion, enforce such rights and seek such equitable relief by court action.

11. Notices.

Except as otherwise specified herein, all notices and statements hereunder given or required to be given shall be sent to each party's address stated at the beginning of this Agreement and marked to the attention of the undersigned individuals or representatives.

12. Force Majeure.

Neither party will be deemed in default of this Agreement to the extent that performance of its obligations or attempts to cure any breach are delayed or prevented by reason of any act of God, fire, natural disaster, accident, act of government, shortages of material or supplies or any other cause reasonably beyond the control of such party ("*Force Majeure*"), provided that such party gives the other party written notice thereof promptly and, in any event, within fifteen (15) days of discovery thereof, and uses its diligent, good faith efforts to cure the breach. In the event of such a Force Majeure, the time for performance or cure will be extended for a period equal to the duration of the Force Majeure but not in excess of six (6) months.

13. Assignment/ Enforcement.

This Agreement will inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, but will not be assigned by any party, except to a wholly-owned subsidiary or to a party acquiring substantially all of its business and assuming all of its obligations and liabilities, except with the written consent of the other party. In the event of any assignment, the transferor or assignor will remain obligated to perform its own obligations and, in addition, will be jointly and severally liable for the proper performance of the obligations of the transferee or assignee pursuant to

this Agreement. XYZCO expressly agrees that in the event a Registered Lead decides to invest in XYZCO, it will insure in its negotiations with the Lead that SHG is paid the fees due under Section 3 of this Agreement.

14. Termination.

This Agreement may be terminated upon thirty (30) days written notice by either party at any time. Termination will not affect SHG's right to receive any Fees or commissions earned under this Agreement if the Leads were Registered as provided for by this agreement, and, if applicable, the Material Assistance was fully completed, prior to the termination and SHG has met the requirements of sections 2 through 4.

15. Entire Agreement.

This Agreement constitutes the entire agreement, understandings and representations by and between the parties and supersedes all prior negotiations, understandings, correspondence, representations and agreements with respect to the same subject matter between the parties. It is the intent of the parties that this Agreement be integrated. Any waiver, modification, amendment or extension of this Agreement, including any oral modification supported by new consideration, must be reduced to writing and executed by both parties in order to be effective. No waiver, modification, amendment or extension of this Agreement will be made except by an instrument in writing signed by both parties. The failure of a party to insist in any one or more instances upon strict performance of any of the terms of this Agreement shall not be construed as a waiver or relinquishment for the future of such terms, but the same shall continue and remain in full force and effect. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of any other provisions of this Agreement. All remedies, either under this Agreement or by law, or otherwise afforded to a party, shall be cumulative and not alternative.

16. Waiver, Modification, Amendment or Extensions.

Any waiver, modification, amendment or extension of this Agreement, including any oral modification supported by new consideration, must be reduced to writing and executed by both parties in order to be effective. No waiver, modification, amendment or extension of this Agreement will be made except by an instrument in writing signed by both parties. Unless otherwise agreed in writing, all terms and conditions of this Agreement shall extend to and be a part of any such waiver, modification, amendment or extension of this Agreement. The parties further agree that the provisions of this section may not be waived except as set forth in this Agreement. The failure of a party to insist in any one or more instances upon strict performance of any of the terms of this Agreement shall not be construed as a waiver or relinquishment for the future of such terms, but the same shall continue and remain in full force and effect. No delay or omission to exercise any right, power, or remedy accruing to a party on any breach or default of the other party under this Agreement shall impair any such right, power, or remedy, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence in such breach or default or any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach or that of any other provisions of this Agreement. All remedies, either under this Agreement or by law, or otherwise afforded to a party, shall be cumulative and not alternative.

17. Independent Contractors.

Each party is an independent contractor with respect to the other, and nothing in this Agreement will be deemed to place the parties in the relationship of employer-employee, principal-agent, partners or joint ventures. Neither party shall have authority to bind the other except to the extent authorized herein.

SHG, Inc.

By: _____

Name: _____

Title: _____

Date: _____

XYZCO, Inc

By: _____

Name: _____

Title: _____

Date: _____

REFERRAL ALLIANCE AGREEMENT LEAD REGISTRATION FORM

One form must be filled out for each Lead and returned to:

From the SHG to XYZCO Inc.

From XYZCO Inc. to the SHG:

Name: Corporate Controller
Phone:
Fax:
Email:

Name:
Phone: 631 725 7994 (fax)

Referral Alliance Information

Company Name: _____	<table border="1"> <tr><td colspan="2">Commercial Lead Registration Form</td></tr> <tr><td>Date Submitted: _____</td></tr> <tr><td>Date Received: _____</td></tr> </table>	Commercial Lead Registration Form		Date Submitted: _____	Date Received: _____				
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