# REFERRAL AGREEMENT

**THIS REFERRAL AGREEMENT ("Agreement")** is made this _____ day of _____, 20___ ("Effective Date") by and between _____ ("Agent"), a corporation having a principal office located at_____, and Metova Inc. ("Consultant"), a Tennessee corporation, having an office located at 3301 Aspen Grove Drive, Suite 301, Franklin, Tennessee 37076.

**WHEREAS,** Consultant is in the business of, among other things, providing certain information technology and related consulting services through its employees, representatives and agents (collectively, "Personnel"); and

**WHEREAS,** Agent has developed certain contacts in the mobile application industry and wishes to refer to Consultant such contacts as may be applicable for the services (collectively, the "Services"); and

**WHEREAS,** Consultant desires to provide adequate incentive to Agent for business development efforts to acquire new customers, yet Consultant also needs to fund ongoing efforts to acquire additional projects from said customers after initial contract between Consultant and customer; and Agent acknowledges that the customers' choice to utilize Consultant for additional projects is materially influenced by performance of Consultant.

**NOW, THEREFORE,** in consideration of the promises and covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1.  Agent hereby agrees to refer selected clients to consultant for the nonexclusive rights to supply goods and services to these individuals and companies.  This referral will result in a referral fee from Consultant to Agent should Consultant and referred customer sign a Statement of Work ("SOW") as set forth in Section 2 below.  To be eligible for a Fee, Agent must identify Referred Customer directly to Consultant by emailing, faxing, or hand delivering a Referral Fee Claim form to Consultant (see Exhibit A for attached sample form).  Existing Consultant customers are not eligible as Prospects, neither are customers currently in the pipeline.  Agent must successfully register each Referred Customer with Consultant.   If the Referred Customer is approved, an email will be sent to Agent.  An approved Referred Customer qualifies Agent for a Referral Fee as set forth in Section 2 herein.   All approval of Referred Customers is at Consultant's sole discretion.

2.  Consultant agrees to pay Agent a referral fee based upon the following:

    a.  Consultant shall pay Agent a one-time fee of TEN (10%) percent of the dollar amount defined in the initially executed Statement of Work between Consultant and the referred customer.  In

the event that the Statement of Work or contemplated task is completed or terminated prior to the expiration of the anticipated or contemplated contract or SOW period, the Consultant shall only be responsible for payment to Agent for any work ACTUALLY BILLED *and* COLLECTED from Customer up to the date of early completion or early termination. COMPENSATION UNDER THIS REFERRAL AGREEMENT CONTEMPLATES ONLY FEE PAYMENT BASED UPON THE INITIAL STATEMENT OF WORK. AGENT SHALL NOT BE ENTITLED TO REFERRAL FEES FOR CHANGE ORDERS AND/OR FUTURE MAINTENANCE BEYOND THE ORIGINAL SOW.

b. Consultant shall pay Agent a one-time fee of TEN (10%) percent of the estimated dollar amount in the initially executed Statement of Work between Consultant and the referred customer where the scope has not been specifically defined. Consultant shall estimate the amount in good faith and provide such written estimate to Agent.

c. IN NO EVENT WILL PAYMENT BE DISTRIBUTED TO AGENT IN THE FORM OF A REFERRAL FEE UNLESS AND UNTIL SUCH TIME AS PAYMENT IS RECEIVED BY CONSULTANT FROM CUSTOMER, UNLESS OTHERWISE SPECIFIED HEREIN, OR BY SPECIFIC ADDENDUM TO THIS AGREEMENT.

d. The following shall be excluded from referral fees set forth in Section 2(a) & (b) herein:

1. Any customers of Consultant that were/are obtained without the assistance of Agent or because of a future relationship Agent may have with Consultant's customers; or

2. any customers referred by Agent but failed to execute a statement of work within one hundred eighty (180) days of the Consultant receiving the referral fee claim form; or

3. any work acquired by Consultant from customer outside the initially executed Statement of Work.

4. Late fees and taxes shall not be subject to referral fees.

e. In the event that the referred customer was referred to Consultant from more than one authorized Agent, the Consultant will pay the Commission to the Agent who provided the most proximate, or recent, referral relative to the date the referred customer signs a SOW with Consultant.

f. **Time of Payment:** Referral fee payments shall be paid once per month to Agent no later than the 10th day of each month for all monies collected by Consultant from Customer for the prior month. (For Example: Consultant receives payments form Customer for work completed during the month of January, 2013. Agent shall receive payment as agreed herein no later than February 10, 2013, and on the 10th of each month thereafter for the money *actually* collected for work performed during the month prior.)

g. **Collection Costs by Consultant:** In the event that Consultant is required to seek collection remedies associated with accounts receivables referred by Agent, the Consultant shall be entitled to deduct legal fees, expenses, and/or collection costs expended prior to any calculation or distribution of referral fees. (For Example: Consultant is owed $1,000.00 from Customer for work performed and billed. Customer defaults on payment resulting in Consultant hiring Collection Agent ABC to collect the debt. Collection Agent ABC charges $300.00 or 30% to collect the debt owed, and actually collects the balance, resulting in $700.00 actually received by Consultant. Referral Agent shall be entitled to only receive the sum of $70.00, or TEN (10%) percent of monies actually received by Consultant.)

3. Referral fees are due when Consultant receives money from the referred client, and must be paid to Agent within 30 days of receipt of funds from referred client.

4. The engagement of Agent is non-exclusive. Consultant may engage a third party to perform any of the Services during the Term and may independently develop relationships for which Agent will not be entitled to any referral fees.

5. All payments shall be made in U.S. currency and payable to Agent. Should referral fee payments exceed $600 in any given year, a 1099 will be issued to Agent using the EIN or social security number to be provided later.

6. The Term and termination of this Agreement shall be as follows:

a. The term of this Agreement ("Term") shall commence on the effective Date and shall continue until the Services are fully performed unless otherwise earlier terminated in accordance with the terms herein set forth.

b. Either Party may terminate this Agreement at any time and without liability by providing the non-terminating Party ten (10) days written notice.

7.  Consistent with the understanding of the parties to this Agreement, Agent is an independent contractor and not an employee, partner, franchisee or joint venture of Consultant. The Consultant declares and covenants that the Consultant is engaged in an independent business, and has complied and will comply with all federal, state and local laws relating to business permits and licenses of any kind that may be required to carry out the business and tasks to be performed by the Consultant under this Agreement. Consultant is not required by Agent to incur any costs or expenses pursuant to this Agreement. No payment or withholding of any federal, state, local, city or other payroll or employment taxes, including but not limited to FICA, state and federal income taxes, FUTA, state disability insurance taxes, and state unemployment insurance taxes relating to income received by Consultant from Agent will be made by Agent. The Agent agrees to indemnify and hold Consultant harmless should a claim related to expenses, insurance or the lack thereof and/or local, state or federal taxes be made by anyone, including any governmental authority.

8.  Agent is not granted any right to use any of the Consultant's trademarks or logos in conjunction with the sales and promotions of Agent's services. Under no circumstances is a Consultant trademark to be used as part of Agent's corporate/business name.

9.  No worker's compensation insurance has been or will be obtained by Consultant on account of Agent. Agent shall comply with any applicable workers' compensation laws with respect to Agent or Agent's employees, if any. Agent shall indemnify and hold Consultant harmless against any claim for injuries or damages caused by Agent while traveling in the scope of Agent's activities pursuant to this agreement.

10. It is understood that the Agent may receive proprietary and sensitive information from Consultant in conjunction with providing the services hereunder. The Agent agrees that Agent will not divulge information pertaining to the Consultant's goods or services nor that of prospective or existing customers to any third party during the term of this Agreement and for a period of three (3) years from date of the termination of this Agreement.

11. This Agreement is governed by the laws of the State of Tennessee. The parties consent to the jurisdiction of the courts of the State of Tennessee and the United States District Court having competent jurisdiction over Williamson County, Tennessee for any dispute arising out of a breach of any paragraph in this Agreement.

12. Agent agrees that it will not solicit any customers that are part of Consultant's customer base for any business that competes with Agent nor will Agent solicit or hire any employees of Consultant during the term of this Agreement and for a period of three (3) years from the date of final referral sale.

13. If a party fails to perform any of its obligations under this agreement or if dispute arises concerning the meaning of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay the reasonable costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including court costs and reasonable attorneys' fees.

14. Notices will be effective hereunder when and only when they are reduced to writing and delivered, by next day delivery service, with proof of delivery, or mailed by certified or registered mail, return receipt requested, to the person named below at the address as first stated above. Notices shall be deemed given on the date delivered or date of attempted delivery, if service is refused.

15. In the event any provision of this Agreement shall be invalid, illegal or enforceable in any respect, such a provision shall be considered separate and severable from the remaining provisions of this Agreement, and the validity, legality or enforceability of any of the remaining provisions of this Agreement shall not be affected or impaired by such provision in any way.

16. This Agreement shall not be assigned by Agent, in whole or in part, without the express written consent of Consultant.

17. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY CONTRACT, NEGLIGENCE, STRICT LABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE), WHETHER FORESEEABLE OR UNFORESEEABLE, REGARDLESS OF THE BASIS OF THE CLAIM AND EVEN IF THE PARTY OR A PARTY REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. CONSULTANTS CUMULATIVE LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEER, AND REGARDLESS OF THE FORM OF THE ACTION, WILL BE LIMITED TO $1,000.00.

Metova, Inc.

Signature: _____     Signature: _____

Name: _____     Name: _____

Title: _____Title: _____


Date: _____      Date: _____