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REFERRAL FEE AGREEMENT

This Referral Fee Agreement (this “**Agreement**”) is made as of _____, 20____ (the “**Effective Date**”) by and between Kubermatic GmbH (“**Kubermatic**”), having its registered address and principal place of business at Willy-Brandt-Straße 23, 20457 Hamburg, and [insert name] having its registered address and principal place of business at [insert address] (“**Partner**”; Kubermatic and Partner each, individually, a „**Party**“ and, collectively, the „**Parties**“).

Background:

Partner is an independent [“company” or “professional”] unaffiliated with Kubermatic but knows Kubermatic’s range of products and services (together the “**Kubermatic Products**”). Partner may, in conducting its own business, know of customers, or come into contract with potential customers, who may have a need for, or an interest in, products and services such as the Kubermatic Products. In such occasions, Partner may be interested in informing such existing or potential customers of the Kubermatic Products and present them to such companies.

Kubermatic wishes to enable Partner to do that in accordance with the terms and conditions of this Referral Fee Agreement (this “**Agreement**”) and, while not assigning Partner with any sales and distribution obligations, offer Partner a referral fee should Partner’s activities lead to sales revenues for Kubermatic.

In witness whereof, the parties have executed this Agreement as of the Effective Date.

Kubermatic GmbH

[Insert Partner]

Signature

Signature

Name and Title (Print)

Name and Title (Print)

Date

Date



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1. Access to and Use of Kubermatic Products

- 1.1. Partner may, as the occasion requires, request of Kubermatic the provision of access to, and use of, Kubermatic Products, both for Partner itself and, as the case may be, for the potential customer. Kubermatic will evaluate corresponding request and grant the request if and inasmuch is reasonable. In any event, grants of access and use are strictly limited to demonstration and evaluation purposes.
- 1.2. Kubermatic hereby grants to Partner, valid only for the term of this Agreement, the following non-exclusive, non-transferable and non-assignable license in the Kubermatic Products that are software:

Software Demonstration License: License to use and, where applicable, make a reasonable number of copies of the demonstration version of the Kubermatic software and its documentation, solely for Partner's own business purposes under this Agreement, which means for the following purpose only: internal training and external demonstration (i.e. demonstration vis-à-vis (potential) customers); the grant of this license shall be free of any charge; however, an evaluation and/or productive use of the Kubermatic software is not permitted.

2. Leads; Brokering of Customers

- 2.1. Partner has no obligation to market, promote or distribute the Kubermatic Products. Partner is free to decide if and when it wishes to do so and brokers prospective customers for Kubermatic. Therefore, Partner will, if at all, only do so if Partner identifies a corresponding opportunity in conducting Partner's regular business, and independently and at its own discretion decides to pursue the opportunity. Partner will, however, inform Kubermatic about a corresponding lead as well as on any feedback Partner may receive from potential customers on the Kubermatic Products.
- 2.2. If Partner wishes to pursue an opportunity and presents and/or demonstrates the Kubermatic Products to a potential End User, and if the potential customer is interested in acquiring any of the Kubermatic Products, Partner may refer the potential customer to Kubermatic for any additional information and and/or the negotiation and closing of the corresponding agreements. Partner may not represent Kubermatic in contractual matters, and Partner has no power of attorney to enter into agreements with customers on Kubermatic's behalf. For further clarity, in no event shall Partner enter into agreements with customers on any Kubermatic Products in its own name or for its own account.
- 2.3. If Partner wishes to also speak with the potential customer on pricing it may do so on the basis of Kubermatic's applicable standard pricing models, but shall from the outset consult with Kubermatic on any pricing information prior to such information being communicated to the potential customer if the prices to be communicated differ from Kubermatic's standard pricing in any way, or if no standard pricing model is available for the requested Kubermatic Products or any pertinent combination thereof.

3. Referral Fee

- 3.1. Should Kubermatic enter into an agreement with the customer on Kubermatic Products within 6 months after the initial referral of that customer to Kubermatic, Partner shall receive a referral fee according to the terms and conditions of this Section 3 and **Annex 1** to this Agreement.
- 3.2. After Partner has referred an opportunity to Kubermatic, Kubermatic shall for 6 months refrain from actively assisting another partner in developing and advancing the same opportunity. Unless agreed otherwise in an individual case, upon expiry of the three (3)



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months without a deal on the respective Kubermatic Products having been closed with the prospective customer, and, irrespectively, upon the end of this Agreement, the opportunity shall no longer be subject to the restraint prescribed by this Section 3.2, unless the Parties expressly agree otherwise.

- 3.3. For the avoidance of doubt, there shall be no entitlement for commissions for Kubermatic Products purchases that are concluded with a customer without Partner's actual, active involvement. If, in an individual case, two parties, Partner and another partner, qualify for a commission, Kubermatic shall divide the commission amount in its reasonable discretion, acting in good faith. In doing so, Kubermatic shall, in particular, take into consideration the contribution of every party in bringing about and handling the purchase.
- 3.4. For further clarity, referral fees can arise only in relation to the first transaction that resulted from the corresponding referral. For the avoidance of doubt, extensions of SaaS agreements (subscriptions) or any other agreements with the customer that are limited in duration, or follow-ups or any other later orders by customers, shall not give rise to additional referral or other fees for Partner. Agreements with the customer that are concluded for an unlimited duration (subject to termination) or an initial duration of more than 12 months shall only give rise to referral fees in the amount that corresponds with the net revenues received by Kubermatic for the first 12 months of such agreement. Also, for the avoidance of doubt, this Agreement does not afford Partner any customer protection (*Kundenschutz*) or territorial protection (*Gebietsschutz*).

4. Term and Termination

- 4.1. This Agreement is entered into for an open term. It may be terminated by either of the Parties by giving three (3) months' notice to the other Party.
- 4.2. The right of the Parties to terminate this Agreement for good cause remains unaffected.
- 4.3. Termination notices required the written form.

5. Fees; Payment

- 5.1. All fees are due net thirty (30) days after the receipt of the corresponding invoice.
- 5.2. Unless otherwise agreed between the Parties, all invoices shall be issued and paid in Euros.
- 5.3. Partner is responsible for paying, any tax, VAT, right, tariff, fee, duty, levy or similar governmental charge that may be assessed by any jurisdiction, provided, however, that Partner shall not have any liability for the income of Kubermatic. If, as a result of any such tax or levy, Partner is required to withhold any amount on any payment to Kubermatic, then the amount of the payment will be automatically increased to totally offset such tax or levy, so that the amount actually remitted to Kubermatic, net of all taxes or levy, equals the amount invoiced or otherwise due as agreed to between the Parties. If applicable, Partner shall provide Kubermatic with the proper legal certificate of the withheld taxes, as well as the proof of its payment to the correspondent authorities.

6. Confidentiality

- 6.1. For the purposes of this Agreement, „Confidential Information“ shall be any non-public information such as technical, operational and economic and business data or know-how, including, but not limited to such data which relates to research, development, product plans, pricing, services, customers, staff, markets, software, software code, inventions, business- and trade secrets, marketing and financing of the disclosing Party, which are marked as confidential or with regard to which their confidentiality can be derived from the circumstances and which are disclosed to the receiving Party. This shall include the conditions of this Agreement. Confidential Information shall, however, not include any information that: (a) is or becomes generally available to the public through no fault of or



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breach of this Agreement by the receiving Party; (b) was rightfully in the receiving Party's possession at the time of disclosure without an obligation of confidentiality on the receiving Party; (c) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information; (d) is rightfully obtained by the receiving Party from a third party not under a duty of confidentiality to the disclosing Party and without restriction on use or disclosure; or (e) the receiving Party is permitted to publicly disclose under another provision of this Agreement.

- 6.2. Neither Party shall disclose Confidential Information of the other Party to anyone or shall use Confidential Information of the other Party for any purpose, except in either case as necessary to exercise its rights or obligations under this Agreement ("Permitted Purposes"). Each Party shall use at least the same degree of care (but no less than reasonable care) to prevent the unauthorized use, dissemination and copying of the other Party's Confidential Information as it uses to protect its own confidential information of a like nature. Each Party shall limit the disclosure of such Confidential Information to those of its employees, consultants, affiliates, advisors and contractors with a bona fide need to access such Confidential Information solely for the Permitted Purposes, and all such employees, consultants, affiliates, advisors and contractors must be subject to binding disclosure and use restrictions at least as protective as those set forth herein. Each Party shall be responsible for any breach of this Section 6.2 by its individual employees, consultants, affiliates' employees, advisors and contractors, as if they were that Party's own employees.
- 6.3. The obligations of confidentiality under this Section 6 shall continue for ten years, even after his Agreement has ended. Each Party shall promptly return or destroy (or in the case of electronic data, use commercially reasonable efforts to delete or render practicably inaccessible by the Party) Confidential Information disclosed by the other Party upon that Party's written request.

7. Miscellaneous

- 7.1. This Agreement and any disputes arising out of or related hereto will be governed by and construed in accordance with the laws of Germany, without giving effect to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods.
- 7.2. The Parties hereby submit to the exclusive jurisdiction of the courts of Hamburg, Germany, for all disputes or claims arising out of or in connection with this Agreement.
- 7.3. None of this Agreement, nor any rights or obligations hereunder may be assigned or subcontracted, whether by operation of law (including by way of sale of assets, merger, consolidation, or otherwise) or voluntarily, without the prior written consent of Kubermatic, such consent not to be unreasonably withheld, and any such assignment or subcontracted arrangement in violation of the foregoing shall be null and void. Kubermatic may, however, assign this Agreement at its sole discretion, upon written notice to Partner.
- 7.4. Any amendments of, or supplements to, this Agreement (including this section 7.1) must be made in writing.



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Annex 1 - Commission

The commission for procured sales depends on the degree of involvement of Partner in the sales process.

1. Kubermatic Products

The following commission schedule is applicable for license (whether perpetual or term licenses) and/or subscription fee revenues realized by Kubermatic from qualifying customers referred to Kubermatic by Partner in accordance with this Agreement. Revenues from support and/or maintenance services as such or from professional services are not subject to a commission.

Degree of Involvement in the Sales Process	Referral Fee Percentage (calculated on the net license revenue amounts*)
<p>Level 1: Partner Initiated</p> <p>Partner names and qualifies a potential prospect (including a contact person) who might be interested in licensing or purchasing a subscription of Kubermatic Software as a new lead. Partner describes the reasons for the prospect's interest in the Kubermatic Software and how it came about such knowledge.</p> <p>Partner then establishes contact with the prospect for Kubermatic and arranges at least one meeting for Kubermatic with key personnel of the prospect, and takes part in such a meeting.</p> <p>Kubermatic then carries out further sales activities as well as the closing of the deal itself. No additional fee percentage applies.</p>	7,5 %
Level 2: Further Partner Involvement	Additional Fee Percentage
<p>a): Joint Development of the Prospect</p> <p>Partner has taken the steps of Level 1 without the assistance of Kubermatic (other than Kubermatic taking part in the meeting itself). Kubermatic and Partner then further develop the prospect together as a team, and the parties arrange and take part in meetings and other communication with the prospect together, until the prospect has announced its firm intention to purchase one or more licenses or a subscription in the Software.</p> <p>The closing of the deal including the final negotiations on price and license scope are carried out by Kubermatic.</p>	5 %

2. Commission Claims

2.1. Commission claims arise as soon as and to the extent to which Kubermatic has executed the transaction and the customer has fulfilled its payment obligations.

3. Loss of Entitlements to Commissions

3.1. Should Kubermatic not execute or perform the license or subscription purchase or subscription, the claim for commission shall lapse if and to the extent to which the non-execution or non-performance is due to circumstances for which Kubermatic bears no responsibility. Circumstances for which Kubermatic is not responsible in particular include the withdrawal from the license purchase by the customer (so long as



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Kubermatic has not caused such withdrawal at least negligently) as well as the withdrawal from the license purchase / termination of the subscription purchase by Kubermatic if the customer has not or not fully fulfilled the corresponding contract.

- 3.2. Further, the claim for commission shall lapse if and to the extent to which non-payment on the part of the customer is certain. Kubermatic is only obliged to take legal action and/or subsequently enforce the corresponding judgement against a customer if these measures offer a reasonable prospect of legal and commercial success, to be determined in Kubermatic's reasonable judgement made in good faith, and if Partner contributes to all expenses of the legal action to a reasonable extent.
- 3.3. If the claim for commission lapses, Partner shall refund to Kubermatic any amounts that Partner has already received (if any). Kubermatic is entitled to credit refund claims against claims for commission.