



## SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT, TOGETHER WITH ANY AND ALL RELATED INSERTION ORDERS (collectively the "Agreement") SET FORTH THE TERMS ON WHICH LEAD GENERATION AND/OR REFERRAL SERVICES ARE PROVIDED BY LENDINGTREE, LLC ("Company", "us", "we" and/or "our") TO YOU ("you" and/or "your"). BY ORDERING, ACCEPTING OR USING THE SERVICE, YOU AGREE TO ALL OF THE FOLLOWING TERMS, IN ADDITION TO ANY TERMS SET FORTH IN ANY RELATED INSERTION ORDERS, WHICH ARE INCORPORATED HEREIN. IF YOU DO NOT AGREE TO ALL OF THESE TERMS, YOU WILL NOT BE ABLE TO USE THE SERVICE OR BUY LEADS.

**1. The Service.** You will be provided with consumer leads ("Lead") from the LendingTree Home Pros<sup>®</sup> lead generation system (the "Service"). Leads are unique telephone or internet based requests for information about specific home services in your general market area. Leads may be generated from multiple sources, including but not limited to printed directories, guides, voice response systems, internet websites and other social media outlets that we may publish or have published from time to time.

**2. Use of the Service.** To qualify for the Service, you will be required to successfully complete our screening process. We may require and/or verify some or all of the following: the status of your applicable licenses, information regarding your insurance coverage, your standing with the Better Business Bureau, your references, and any other reasonable information regarding your ability to participate in the Service. You agree that you will promptly advise us of changes in any of the above-mentioned information, and your failure to do so may result in the termination of your use of the Service.

Once you have successfully completed the screening process, you will access the Service through your account ("Account") on the merchant section of our website at <http://propages.lendingtree.com/> ("Pro Pages"). All Leads will be sent to you via your Account. You may also elect to additionally receive these same Leads via telephone call, text, e-mail or other data transfer mechanism as we may make available from time to time. If you elect to receive Leads via text, standard text rates may apply and you are responsible for their payment. You must maintain your contact information current on Pro Pages, and we make no guarantees that you will receive Leads sent in any manner other than via your Account. Accordingly, you agree to periodically review your Account for the receipt of new Leads, and the sending of a Lead to your Pro Pages Account shall conclusively establish your receipt of that Lead. Additionally, you agree to maintain all other Account information current in Pro Pages, including but not limited to your billing information, geographic area, price per Lead, maximum Leads per day, and Monthly Maximum. We disclaim all responsibility for any changes that you make, or your failure to maintain your information current in Pro Pages. Further, we disclaim all responsibility for any changes that you request for us to make to your Account. Any request that we make on your behalf will be reflected in your Account, which you must manage and maintain.

**3. Payment.** You agree to pay a one-time, non-refundable account set-up fee ("Initial Fee") as specified in the relevant insertion order ("IO"). The Initial Fee includes your application review, background screening and account set-up in Pro Pages. Thereafter, you agree to enter your valid credit card into your Account on Pro Pages or you will authorize us to input this information. You will define a maximum dollar amount that you wish to spend per month on Leads ("Monthly Maximum"), and we will deliver Leads to you up to your Monthly Maximum amount (together with any previous balance). Lead prices will be posted on Pro Pages, and may change from time to time. Your credit card will be charged on a recurring basis to pay for the Leads. We will notify you when you have spent the Monthly Maximum, at which time you can either pause your Account for the remainder of the month, or increase your Monthly Maximum to continue to receiving Leads. The minimum amount ("Minimum Account Balance") that you must maintain in your Account to receive Leads is the price of two Leads, and you agree that the Minimum Account Balance will be held by us until all monies due on your Account are paid. Should the balance in your Account ever drop below the Minimum Account Balance, we will automatically charge your credit card in the amount of two Leads or ¼ of your Monthly Maximum, whichever is greater. You hereby irrevocably authorize us to charge these amounts and any amounts contemplated by any IO to your credit card, and you agree not to dispute or challenge charges from us through any chargeback, dispute, billing or other process or procedure that may be available through your credit card company. You agree to maintain updated credit card information on file in your Account. Further, if the credit card that you provide is ever declined for any reason, you will be assessed a \$25 fee in addition to any other amounts you may owe. If you default in any payment, we will have the right to suspend or terminate the Service immediately. Additionally, you will be responsible to pay late fees on any unpaid balance commencing on the due date at the rate of 1.5% per month (18% per annum), or at the maximum rate permitted by applicable law, whichever is lower. We reserve the right to unilaterally change the Lead prices and Minimum Account Balance from time to time, and you will be notified of any such changes via your Account on Pro Pages.

**4. Lead Data.** You acknowledge that Lead data is solely owned by us, and you agree not to distribute, re-sell or otherwise transfer any Leads or any Lead data to any third party without our prior written consent. Unless and until you establish a separate relationship with a consumer and receive permission for further sharing, you may only share Leads or Lead data with third parties who help you schedule appointments. You shall not sell, disclose or otherwise transfer any Lead data containing personally identifying information to any third party without obtaining consumer's consent.

**5. Lead Returns.** Lead returns are subject to our sole discretion, and Lead return requests must be submitted via Pro Pages within forty-eight (48) hours of Lead delivery. We agree to process Lead return requests within ten (10) business days of receipt of the request. No refunds will be granted for Lead returns. However, we may issue a Lead credit to you, which can used to receive one replacement Lead in the same home services category and geographic area. No Lead credits will be issued to Accounts that are deactivated, paused or have insufficient funds in the Account. Please refer to our Lead Credit Guidelines, which are incorporated herein, at <http://propages.lendingtree.com/Admin/LeadCreditGuidelines.aspx> for further details.

**6. License.** You hereby grant us a non-exclusive, royalty-free, sublicenseable license to use your trade names, domain names, trademarks, service

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marks, logos, distinctive brand features and any other intellectual property to perform any advertising, activities or other obligations on your behalf. We agree not to adopt or register any of your trademarks or to take any action inconsistent with your ownership of your trademarks.

**7. Term and Termination.** The term of the Agreement shall be 30 days ("Term") and will automatically renew for successive 12 month terms until cancelled in writing by either party. We may terminate the Agreement upon seventy-two (72) hours written notice. You may terminate the Agreement upon seventy-two (72) hours written notice only after you have fulfilled at least one month of the Term. If at any time we determine that you have breached the Agreement or the terms and conditions of any of our policies (including the LendingTree Home Pros® Guarantee), we may, at our sole option, immediately terminate your use of the Service. If at any time we receive an unacceptable amount or quality of negative feedback on you from consumers, or you receive an unsatisfactory rating from a nationally-recognized organization that rates the quality of service providers, we may, at our sole option, immediately terminate your use of the Service. If you elect to terminate the Agreement or deactivate your Account, you agree to forfeit any balance remaining in your Account.

**8. Representations and Warranties.** You represent and warrant that: (a) you have full power and authority enter into the Agreement and to transact any and all business contemplated by the Agreement; (b) your employees, contractors, agents and any person or entity acting on your behalf will be bound by the Agreement; (c) you possess the necessary power, licenses, permits and franchises to conduct business wherever you conduct business and to execute, deliver and comply with your obligations hereunder; (d) you will comply with all applicable federal, state and local laws in performing your obligations; (e) you will use best practices to protect any consumer information provided to you; (f) you will use your best efforts to respond to every Lead within twenty-four (24) hours; and (g) you will perform all services in a professional manner and will abide by the high standards of our LendingTree Home Pros® merchants. By entering into the Agreement, you agree to cooperate fully with us in all stages of the LendingTree Home Pros Guarantee process, which is incorporated herein, and is located at <http://homepros.lendingtree.com/guarantee>.

**9. Disclaimer.** THE SERVICE IS PROVIDED FOR USE "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, WE DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE NUMBER OR QUALITY OF LEADS THAT WILL BE TRANSMITTED, THE IDENTITY OF LEADS THAT ARE TRANSMITTED OR THE VALIDITY OR ACCURACY OF ANY DATA.

**10. Indemnification.** You shall save, defend, indemnify and hold us harmless from and against any claim that is attributable to or arises from (i) your breach of any material obligation, representation or warranty in the Agreement; (ii) any injury or damages caused by you, your employees, your contractors, your fault or your negligence; (iii) your infringement of any contracts rights, intellectual property rights or tort rights (including the right of publicity or right of privacy) of any third party; and (iv) any dispute between you and any of your customers. You agree to promptly pay and fully satisfy any and all losses, judgments or expenses, including, without limitation, costs of settlement and attorneys' fees incurred or sustained, or reasonably likely to be incurred or sustained by us as a result of any claims of the types described in this section. This provision shall survive the termination of this Agreement.

**11. Limitation of Liability.** UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS OR LOSS OF OR DAMAGE TO DATA. IN NO EVENT SHALL OUR LIABILITY HEREUNDER EXCEED THE AMOUNT OF FEES YOU HAVE PAID IN THE PRIOR THREE (3) MONTH PERIOD UNDER THE AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**12. Confidentiality.** In connection with your use of the Service, you may have access to our confidential business and technical information, whether or not identified or marked as confidential. You shall hold all such confidential information acquired from us in confidence, and not disclose it to any third party or use this information without our prior written consent. This provision shall survive the termination of this Agreement.

**13. Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina without regard to any conflict of law provisions. Should a dispute arise under or in relation to the Agreement, jurisdiction over and venue of any suit shall be exclusively in the state and federal courts of Charlotte, North Carolina. If we must employ attorneys to enforce any right arising out of or relating to the Agreement, we shall be entitled to recover reasonable attorneys' fees. This provision shall survive the termination of this Agreement.

**14. Assignment.** Except with our prior written consent, you may not assign any rights or delegate performance of any duties of the Service or under the Agreement in whole or in part. Upon written notice, we may assign the Agreement. Subject to the foregoing, the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**15. Proprietary Rights.** All information, including Leads, materials, and methodologies developed by us and provided to, or otherwise obtained by, you under the Agreement remains our property and shall not be used by you in any manner inconsistent with the Agreement. You acknowledge that we own all right, title and interest in our trademarks and other intellectual property rights, and that by participating in the Service, you gain no rights of ownership in such rights. You may use our name, domain names or marks, as well as our "Guaranteed" or "Best At" designations and logos only with our prior express, written consent and subject to our usage guidelines.

**16. Waiver and Severability.** The failure of Company to enforce any of its rights under the Agreement shall in no way be deemed to be a waiver of any such right. If any provision of the Agreement shall be found by a court of competent jurisdiction to be invalid or unenforceable, such finding shall not affect the validity or enforceability of the Agreement as a whole or of any other provision of the Agreement.

**17. Relationship.** We are independent contractors with respect to each other, and nothing contained in the Agreement shall create or suggest any

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affiliation, association, partnership, agency or joint venture between the parties. Neither party shall represent itself or act as the associate, partner, agent or joint venturer of the other party in any way whatsoever.

18. **Privacy.** Your privacy, as well as the privacy of consumers using the Service is important to us. Using the Service may require the disclosure of certain information. Please review our privacy policy, posted at [www.homepros.lendingtree.com](http://www.homepros.lendingtree.com), detailing what we collect and how we use it. By signing this Agreement, you agree to abide by such policy, as we may amend it from time to time by posting such amendments at the foregoing URL. For quality assurance purposes, calls between you and consumers may be recorded and you are responsible for notifying anyone that answers your telephone that such recording may occur.

19. **Entire Agreement.** The Agreement contains the entire agreement between you and us with respect to the Service. By either: (a) signing the Agreement in any manner; (b) confirming the approval of the Agreement via e-mail; (c) clicking to approve the Agreement as part of initial Account setup; or (d) otherwise ordering, accepting or using the Service, you accept the Agreement and agree to all of the terms contained herein. You may not modify or supplement the Agreement without our written consent. However, you agree that we have the right to unilaterally revise or modify the Agreement from time to time. You will be notified of these revisions or modifications via your Account on Pro Pages. If you continue to use the Service after notification, you shall be deemed to have accepted any such revisions or modifications, and may only reject such revisions or modifications by cancelling the Agreement.

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

Print: \_\_\_\_\_

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