

**WYNNOW, LLC**  
**CONTRACTOR REFERRAL AGREEMENT**  
**(CONSISTS OF EIGHT (8) PAGES)**

THIS AGREEMENT is made between WYNNOW, LLC, 3565 Nesco Road, Hammonton, New Jersey 08037 (hereinafter referred to as “WYNNOW”) and \_\_\_\_\_, with an address of \_\_\_\_\_ (hereinafter referred to as “Customer”).

**PREAMBLE**

WHEREAS, WYNNOW is in the business of referring contractors to customers for work a customer requests; and

WHEREAS, WYNNOW makes it easier and more convenient for the Customer to find a contractor to perform work requested by the Customer; and

WHEREAS, Customer wishes to engage WYNNOW to provide Contractor Referral Services to assist Customer in finding a contractor for work requested by Customer.

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves and their respective successors and assigns, hereby covenant and agree as follows:

**1. Services of WYNNOW.**

WYNNOW is a contractor referral company that will assist Customer in finding a contractor to perform work requested by Customer. WYNNOW shall: (a) advise Customer of the cost for the work requested; and (b) handle billing and payments for the work requested. Customer shall not pay any contractor referred from WYNNOW directly for any work requested by Customer from WYNNOW.

**2. Services Not Provided by WYNNOW.**

WYNNOW does not provide the following services:

- (a) WYNNOW, in accordance with the terms of this Agreement, is not a general contractor and shall not provide general contractor services to Customer.
- (b) WYNNOW cannot and will not engage in litigation on behalf of Customer or offer advice if litigation is instituted by Customer against a contractor referred by WYNNOW.
- (c) WYNNOW does not guarantee or warrant the work performed by contractor. Customer’s recourse for any work performed by contractor shall be directly with the contractor.

Initial \_\_\_\_\_

- (d) WYNNOW cannot and does not make any representations, guarantees or warranties as to any contractor's compliance with the New Jersey Contractors' Registration Act (N.J.S. 56:8-136, et. seq.) and/or the New Jersey Consumer Fraud Act (N.J.S. 56:8-1, et. seq.).
- (e) WYNNOW shall not perform any inspection, review or analysis of the physical or structural condition of any structure where Customer requested the work be performed.
- (f) WYNNOW shall not perform any inspection, analysis, review, recommendation or opinion relative to or in connection with the sale or transfer of any property to a third party. Customer recognizes and agrees that any third party has no right or obligation to rely upon the referral services performed by WYNNOW pursuant to this Agreement.

**3. Customer Satisfaction.**

Notwithstanding Section 2(c) above, WYNNOW may review the work performed and assist Customer in addressing any work not completed in a workmanlike manner with contractor. However, WYNNOW is not under any obligation to assist or correct any defective work or work not performed in a workmanlike manner.

**4. Cost of Work.**

WYNNOW shall advise Customer of the cost for work requested by Customer. Customer shall not request contractor to perform any additional work without first contacting WYNNOW to inform WYNNOW of the additional work and receiving a price for same from WYNNOW. WYNNOW shall handle all billing and payments for the work requested. Customer shall not pay any Contractor referred from WYNNOW directly for any work requested by Customer from WYNNOW. Customer shall pay WYNNOW within three (3) business days of the due date of any invoice/bill. Any payment due and unpaid under this Agreement shall bear interest from the date payment is due at a rate of 1.5% per month.

All payments made under this Agreement shall be conclusive evidence of the performance of the work by contractor.

**5. Term and Termination.**

The term of this Agreement shall commence upon Customer's execution of this Agreement, and continue in full force and effect for a period of one (1) year (the "Initial Term"). This Contractor Referral Agreement shall renew automatically for successive one (1) year periods without further action by the parties (the "Renewal Term"), unless the Customer sends written notice to WYNNOW not less than ninety (90) days prior to the expiration of the Initial Term or any Renewal Term.

WYNNOW may also terminate this Agreement upon thirty (30) days' notice to the Customer, for any of the following reasons:

- (a) The Customer fails to pay any service fees or other charges due pursuant to this Agreement in a timely manner; and
- (b) Any breach by the Customer of any of the provisions contained in this Agreement.

**6. Method of Performing Work.**

Customer understands, acknowledges and agrees that the contractor shall determine the method, details and means of performing the work requested by Customer.

**7. Independent Contractor.**

Customer understands, acknowledges and agrees that the contractor will act as an independent contractor and this Agreement shall not be interpreted to create any employment, partnership, joint venture or other business association between WYNNOW and contractor. Contractor shall have no authority to contract for or obligate WYNNOW in any way.

**8. Nonpayment of Invoice/Bill.**

Customer is obligated for payment in full of any invoice/bill due to WYNNOW under the terms of this Agreement. In the event Customer fails to pay any invoice/bill, Customer shall be liable to WYNNOW for reasonable attorneys' fees, court costs and any and all additional costs WYNNOW incurs to collect any invoice/bill.

**9. Customer Responsibility.**

Customer understands, acknowledges and agrees that Customer must fully cooperate with WYNNOW and provide all information requested by WYNNOW that WYNNOW deems relevant to the issues involved in this Agreement, in WYNNOW's sole discretion. If Customer fails to provide WYNNOW with any documentation or information requested by WYNNOW, then WYNNOW may terminate this Agreement without any further obligation to Customer.

**10. Indemnity of WYNNOW.**

Customer agrees to indemnify and hold WYNNOW and its subsidiaries, officers, employees, representatives and successors harmless from all claims, demands, damages, losses, fines, penalties and expenses including, but not limited to, attorneys' fees incurred by Customer, due to or arising out of the actions of a Contractor referred by WYNNOW pursuant to this Agreement.

Customer expressly understands and agrees that WYNNOW and its subsidiaries, officers, employees, representatives and successors shall not be liable to Customer for any direct, indirect, incidental, special, consequential, punitive or exemplary damages, including but not limited to, damages for loss of profits, good will, use, data or other intangible losses (even if Customer has been advised of the possibility of any such damages) which arise out of or in connection with work performed by a Contractor referred by WYNNOW pursuant to this Agreement.

**11. No Warranty.**

WYNNOW does not and shall not guarantee and/or warrant any work performed by any contractor referred to Customer. This paragraph specifically includes, but is not limited to, any express or implied warranty (including by way of illustration and not limitation, implied warranties of merchantability or fitness for a particular purpose).

Customer understands that this Contractor Referral Agreement does not, in any way, constitute a guarantee, warranty of merchantability or fitness for a particular purpose, express or implied warranty, or insurance policy.

**12. Insurance.**

WYNNOW agrees to use its best efforts to make sure any contractor referred by WYNNOW to Customer has in effect while performing the work requested by Customer such liability insurance as will protect from claims, under workers compensation and other employee benefit laws, for bodily injury and death, and for property damage, that may arise out of work requested by Customer, in the following amounts:

- (a) Commercial liability - \$1,000,000 per occurrence bodily injury/\$1,000,000 per occurrence property damage/\$2,000,000 aggregate
- (b) Workers Compensation - \$1,000,000 per occurrence bodily injury/\$1,000,000 per employee for bodily injury by disease/\$1,000,000 aggregate for bodily injury by disease
- (c) Automobile Liability - \$500,000 per occurrence /\$1,000,000 aggregate.

Although WYNNOW requires any contractor that uses its services to provide proof of such insurance to be filed by the contractor with WYNNOW. WYNNOW does not and cannot guarantee such insurance will cover the work performed by contractor. Customer understands and acknowledges that WYNNOW does not request, investigate and/or require any contractor referred by WYNNOW to carry Builder's Risk Insurance.

**13. Nondisparagement.**

Customer agrees not to make, publicly or privately, any disparaging or derogatory remarks or otherwise make statements that would injure the business or reputation of WYNNOW, WYNNOW's employees or officers, including but not limited to comments on social networking sites (i.e. Facebook, Myspace, LinkedIn, Twitter and/or blogs). This includes statements made by Customer directly or indirectly or by Customer's employees, agents or representatives. Customer further acknowledges that this Non-Disparagement paragraph is of substantial significance to WYNNOW and if Customer were to breach this provision it will result in substantial harm to WYNNOW. Consequently, if such breach is proven, then Customer shall be liable to WYNNOW for reasonable attorneys' fees and any and all costs WYNNOW incurs to establish such breach along with damages of, at a minimum, Ten Thousand Dollars (\$10,000.00), as well as any other damages and/or injunctive relief ordered by a Court. This

Non-Disparagement Section shall survive any termination of this Agreement for Contractor Referral Services and any breach of this Agreement for Contractor Referral Services.

Customer understands and agrees that this Non-Disparagement provision is important to WYNNOW, and forms a germane and integral part of this Agreement for Contractor Referral Services. The absence of this Section 13 would have resulted in WYNNOW refusing to accept Customer as a client and refusing to enter into this Agreement for Contractor Referral Services.

**14. Entire Agreement and Governing Law.**

This Agreement contains the entire Agreement between WYNNOW and Customer relative to its subject matter, superceding all prior Agreements or understandings of the parties relating thereto, and this Agreement shall be governed by the laws of the State of New Jersey and enforced in the Superior Court of New Jersey, Atlantic County.

**15. Consent to Jurisdiction and Venue.**

Both parties hereby consent and agree to be bound that any litigation with respect to any aspect of this Agreement shall be filed in the Superior Court of New Jersey, Atlantic County, located at 1201 Bacharach Blvd., Atlantic City, New Jersey. The parties and each signatory acknowledge that each has had an opportunity to consult with independent counsel with respect to this paragraph.

**16. Waiver.**

Any term or provision of this Contract may be waived in writing at any time by the party entitled to the benefit thereof. Failure of either party at any time to require performance of any provision of this Contract shall not affect its right at a later time to enforce such provision. No consent or waiver by either party to any default or to any breach of a condition contained in this Contract shall be deemed or construed to be a consent or waiver of any other breach or default.

**17. Notices.**

All notices and other communications provided for in this Agreement that one party intends to give to the other party shall be in writing and shall be considered given when mailed via certified mail return receipt requested or personally delivered at the addresses set forth in the first paragraph of this Agreement (or to such other addresses as the parties shall designate by notice hereunder), or emailed with an acknowledgement from the recipient confirming receipt of same.

**18. Interpretation of Contract.**

This Contract is deemed to reflect the joint drafting efforts of both parties and in the event any dispute arises regarding this Agreement or its interpretation, both parties shall be considered joint authors of this Contract and no provisions shall be interpreted against either party because of authorship.

**19. Counterparts.**

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**20. Severance.**

If any provision of this Agreement is prohibited by law or adjudged by a Court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

**21. Binding Effect.**

This Agreement is binding upon all parties who sign it and all who succeed to their rights and responsibilities, such as their heirs or the Executors of their Estate.

**22. Waiver of Right to Trial by Jury.**

**Both parties hereby waive any right to request a trial by jury in any litigation with respect to any aspect of this Agreement. The parties and each signatory acknowledge that each has had the opportunity to consult with independent counsel with respect to this waiver.**

**23. Waiver of Right to File or Participate in Class Action.**

**Both parties hereby waive any right either may have now or in the future to file or participate in any class action of any kind, against one another, concerning any matter based on contract, tort, statutes, regulations, ordinances, or any other basis. The parties and each signatory acknowledge that each has had the opportunity to consult with independent counsel with respect to this waiver.**

**24. Indemnification for Jury Trial or Class Action.**

In the event either party breaches this Agreement by not complying with the jury trial or class action waiver, the breaching party agrees to indemnify, defend and hold harmless the non-breaching party for all attorneys' fees and costs incurred at any trial or appellate level to defend such action and/or to enforce these provisions. The waiver of jury trial and class action provisions shall be irrevocable unless waived specifically in writing signed by both parties.

**25. Modifications.**

This Agreement may not be modified, altered, amended, or changed except by an instrument in writing duly and validly executed by the parties hereto.

**26. Headings.**

Section headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose and shall not in any way define or affect the meaning, construction, or scope of any of the provisions hereof.

**27. Assignment of Rights.**

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, cooperation, or other entity without the prior, express, and written consent of the other party.

**28. Home Improvement Contract Notices (applicable to residential or non-commercial property).**

It is Customer's responsibility to make sure any agreement, proposal and/or estimate executed by Customer with any contractor referred by WYNNOW complies with the New Jersey Contractors' Registration Act and New Jersey Consumer Fraud Act. Accordingly, if applicable, the Customer is responsible to make sure any agreement, proposal and/or estimate contains certain information which includes, but is not limited to, the following information:

- (a) The legal name and business address of the contractor.
- (b) The Contractor Registration Number of the contractor.
- (c) Contractor provides Customer with a copy of the Certificate of Commercial General Liability Insurance required of contractor pursuant to N.J.S. 56:8-151 and the telephone number of the insurance company.
- (d) The total price to be paid by the Customer, which price should be the same as the price provided by WYNNOW to Customer. If the price provided by contractor is not the same as the price provided by WYNNOW to Customer, Customer shall immediately contact WYNNOW.
- (e) Notice to Customer informing Customer that Customer may cancel any contract with contractor at any time before midnight of the third business day after receiving a copy of any contract from contractor. If Customer wishes to cancel any contract provided by contractor, Customer must either: (i) send a signed and dated written notice of cancellation by registered or certified mail, return receipt requested to contractor; or (ii) personally deliver a signed and dated written notice of cancellation to contractor.

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]  
[SIGNATURES ON NEXT PAGE]**

**29. Signatures.**

WYNNOW and Customer understand and agree to the terms of this Agreement for Contractor Referral Services. This Agreement shall be executed by facsimile, or e-mail (PDF format), if necessary.

**WYNNOW, LLC**

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Print Name/Title

**CUSTOMER**

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Print Name/Title

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Date

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Print Name/Title