

BRAVE NEW EARTH, LLC ENERGY REFERRAL PARTNER AGREEMENT
National Referral Partner Program | Energy Never Sleeps Campaign

This Contract for Services (this "Agreement") is between Brave New Earth, LLC ("BNE"), a Texas limited liability corporation and _____, residing in _____ (hereinafter referred to as "Referral Partner").

RECITALS

WHEREAS, BNE is in the business of brokering and advising end-use energy customers in the procurement of electricity and/or natural gas utility services, energy efficiency and energy related planning to commercial, industrial and municipal customers in deregulated energy markets across North America;

WHEREAS, BNE shall provide on an independent contractor basis, the ability for Referral Partner to refer prospective end-use energy customers and earn respective referral fees in the process;

WHEREAS, Referral Partner is in a similar service based business (non-energy related) serving commercial customers and desires to refer such prospective energy customers to BNE for the purposes of earning referral fees;

NOW THEREFORE, for and in consideration of the mutual promises of the parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned agree to the following:

COMMERCIAL TERMS & CONDITIONS

1. **BNE Responsibilities:** BNE agrees to provide the following: a) commission structure as defined in Exhibit A, b) energy and sales related training, c) marketing materials, d) provide a national selection of REP's and commercially reasonable product/service options d) ongoing support in the procurement of End-Use Customers and e) related reporting regarding Leads, Deals and Closed Deals.
2. **Referral Partner Responsibilities:** Referral Partner shall perform the services hereunder as an independent contractor and nothing stated or implied herein shall be construed to make Referral Partner, nor shall Referral Partner in any way represent himself to be an employee of BNE or any of its affiliates. Referral Partner may perform said services at such dates, times and places, and in such manner as BNE shall reasonably designate; provided, however, that BNE can schedule such dates and times and specify such places as will not unreasonably restrict Referral Partner's ability to consult with and render similar services to others. This Agreement does not grant or confer any exclusive rights onto Referral Partner, and shall in no way limit BNE's (or any of its affiliates') rights to engage or hire any other party to provide services similar to or within the same territory as those provided by Referral Partner under the terms herein. Notwithstanding the foregoing, Referral Partner acknowledges and agrees that he/she will not render similar services to any competitors of BNE, or solicit BNE Clients, as set forth in the applicable paragraphs of this this Agreement.

Referral Partner understands and agrees that because he is not an employee of BNE he is not eligible for regular employee benefits, including regular group medical insurance, worker's compensation insurance, life insurance, unemployment compensation or other employee benefits. Referral Partner will be responsible for paying his own insurance, taxes (including but not limited to Social Security, federal, state and local income taxes), contributions, and any other payments to any third-party or governmental entity required as a result of this Agreement or any state or federal law. Referral Partner shall be required to provide for his own medical expenses incurred during the term of this Agreement and shall, at his own cost, carry life insurance and major medical insurance with the insurance company of his choice. Referral Partner acknowledges and agrees that BNE and its insurers shall not be liable for any injury or damage to Referral Partner's property, health or life during the Term of this Agreement.

3. **Referral Partner Conduct:** Referral Partner shall comply with all applicable laws, regulations, and the policies of BNE, and shall conduct itself as not to adversely or negatively affect the business, good standing, or reputation of itself, BNE or BNE's Clients. The determination of whether or not Referral Partner or Referral Partner's employees, or Referral Partner's assigns have complied with this section shall be in the sole discretion of BNE, and such determination by BNE shall be grounds for termination of this Agreement.
4. **Referral Partner Authority:** Referral Partner is not authorized to extend or provide verbally or in writing, any promise, warranty or guarantee of any kind whatsoever on its behalf or on behalf of BNE or to make representations or claims of any kind whatsoever, with respect to BNE's services without express written authorization from BNE.
5. **Term:** The Term of this Agreement shall be for a period of 12 months commencing on the Effective Date as specified on page 1 of this Agreement. The Agreement shall automatically renew for successive 12-month periods unless otherwise terminated in accordance with the terms of this Agreement.

6. **Termination Without Cause:** Either Party may terminate this Agreement at any time without cause upon thirty (30) calendar day's written notice to the other party. Termination Without Cause of this Agreement shall not impact any previous Closed Deals that have been verified and effectuated prior to the termination event.
7. **Termination For Cause:** BNE may immediately terminate this Agreement with or without notice, in the event of a "For Cause" event by Referral Partner. For purposes of this Agreement a "For Cause" event shall mean any of the following: (i) any attempt by Referral Partner to lie or misrepresent any information within the Closed Deal packet of materials, specifically as it relates to Referral Fees; (ii) Referral Partner's conviction of (or plea of *nolo contendere*) any felony or to any crime or offense causing substantial harm to BNE or the other related parties or involving acts of theft, fraud, embezzlement, moral turpitude or similar conduct; (iii) Referral Partner's intoxication by alcohol or drugs during the performance of Referral Partner's duties in a manner that adversely affects Referral Partner's performance of such duties or commercial reputation of BNE; (iv) malfeasance in the conduct of Referral Partner's duties, including, but not limited to, (a) willful and intentional misuse or diversion of funds of BNE or its affiliates, (b) embezzlement, or (c) fraudulent or willful and material misrepresentations or concealments on any written reports submitted to BNE or its affiliates; (d) Referral Partner's material violation of or material failure to perform in accordance with any provision of this Agreement or other agreements among Referral Partner and BNE; or (e) the intentional misrepresentation or misstatement of information on any Customer's LOA or ESA for unethical and/or unlawful gain. Termination for Cause may, at the sole discretion of BNE impact previous and/or future Referral Fees owed to Referral Partner, depending upon whether or not and to the extent of which that Referral Partner's actions may have caused damages to BNE.
8. **Referral Fee Payments Post Termination:** If this Agreement is terminated without cause by either Party, then Referral Partner shall be entitled to his or her full commission payments owed, as per the terms of this Agreement, provided that Referral Partner has not/is not violating any of the non-disclosure or non-solicitation provisions defined herein.
9. **Timing of Referral Fee Payments:** Referral Fee Payments shall be paid on or around the first (1st) and fifteenth (15th) of each calendar month and in respect of the prior calendar months receipts. Under no circumstance will BNE pay Referral Fees when it has not received respective commission, income or revenue payments from Client.
10. **Trademarks, Salesmarks & Brand Name Uses:** Referral Partner agrees not to use the logo, name of BNE or Client in any manner not authorized in writing by BNE. Referral Partner agrees not to use any sales or marketing materials not authorized in writing by BNE. Furthermore, Referral Partner agrees not to represent his or her self as an employee of any Client.
11. **Ownership of Proprietary Information:** Referral Partner acknowledges that he/she will be exposed to non-standard business processes, certain know-how, intellectual property, business process engineering, training methodology and materials, proprietary software systems, customer records, certain payment information, commission amounts, vendor agreements, third party relationships, strategic tenets, joint ventures, and highly specialized industry training materials, which are the exclusive property of BNE; furthermore, that releasing such information to unauthorized third parties shall be grounds for immediate termination of this Agreement and forfeiture of any and all current and future commission fees owed.
12. **Tax Withholding Responsibility of Referral Partner:** BNE is not obligated to and shall not be required to withhold any amount of monies on behalf of Referral Partner for state or federal income tax or for FICA taxes from sums due or becoming due to Referral Partner under this Agreement. Referral Partner shall not be considered an employee of BNE and shall not be entitled to participate in any plan, arrangement or distribution by BNE pertaining to or in connection with any pension, stock, bonus, profit sharing or any other benefit extended to BNE's employees. Referral Partner shall be free to utilize his/her time, energy and skill in such manner, as he or she deems advisable to the extent that he is not otherwise obligated under this Agreement.
13. **Severability:** If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, rule or regulation, that part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of that provision or the remaining provisions of this Agreement.
14. **Release & Third Party Indemnification:** BNE SHALL NOT BE RESPONSIBLE FOR, AND AGENT SHALL EXPRESSLY INDEMNIFY, RELEASE, AND HOLD HARMLESS BNE AND ITS AFFILIATES INCLUDING ANY OF ITS MEMBERS AND OFFICERS AND THE EMPLOYEES, AGENTS, SUBCONTRACTORS, INVITEES, LESSORS, AND CUSTOMERS AND THEIR EMPLOYEES OF BNE AND ITS AFFILIATES FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LIABILITIES AND LAWSUITS, INCLUDING ALL COSTS, FEES (INCLUDING ATTORNEYS FEES) AND EXPENSES IN ANY WAY, INCLUDING BUT NOT LIMITED TO THE SOLE OR CONCURRENT NEGLIGENCE, STRICT LIABILITY OR OTHER FAULT OF BNE OR A THIRD PARTY ARISING OUT OF INJURIES TO OR DEATH OF THE AGENT, OR THIRD PARTIES, OR DAMAGE TO OR LOSS OF PROPERTY OF THE AGENT, OR THIRD PARTIES, WHICH OCCUR DURING OR AS A RESULT OF THE ACTS OR OMISSIONS BY AGENT, OR AGENT'S EMPLOYEES, OR AGENT ASSIGNS WITHIN THE CONTEXT OF THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT.

IN REGARD TO ALL SERVICES PERFORMED HEREUNDER, REFERRAL PARTNER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS BNE FROM CLAIMS, DEMANDS, LIABILITIES, LAWSUITS (INCLUDING LEGAL FEES AND INTEREST), AND CAUSES OF ACTION ASSERTED AGAINST BNE BY ANY PERSON (INCLUDING WITHOUT LIMITATION, AGENT AND BNE'S EMPLOYEES, OR ANY THIRD PARTY) FOR PERSONAL INJURY OR DEATH OR FOR LOSS OF OR DAMAGE TO PROPERTY.

15. **Jurisdiction:** This Agreement and all transactions contemplated hereby, shall be governed by, construed and enforced in accordance with the laws of the State of Texas. The Parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in Dallas County, State of Texas.

16. **Parties & Notices:**

Parties & Notices: For purposes of this Agreement the Parties are as follows:

Brave New Earth, LLC – “Company”

Attn: Brave New Earth, LLC / Alex Rodriguez

Law Offices of Stephen Boss

100 Highland Park Village, Suite 200

Dallas, TX 75205

Office: (214) 637-2400 | Fax: (972) 499-2302

Email: legal@diversegy.com

“Referral Partner”

Name: _____

Address: _____

Address: _____

City/State/Zip: _____

Office: _____ Cell: _____

Email: _____

DEFINITIONS

- I. **“Broker Fee” and/or “Sales Margin”:** The Broker Fee shall be the amount per kilowatt-hour or per therm of natural gas that is above and beyond the energy price by the respective REP. For purposes of this Agreement, Referral Fees shall be a percentage of this number/amount.
- II. **“Closed Deal”:** Shall refer to an End-Use Customer who has executed the proper ESA, with correct pricing and any other subsequent exhibits or documents that may be required by BNE or Client; such package must be submitted daily to BNE, who will then submit to the respective Client, in order to qualify as a Closed Deal. Referral Fees are only paid on completed Closed Deals that have been accepted and verified by the Client, via a Deal Confirmation process.
- III. **“Referral Fee”:** Shall refer to the amount earned by Referral Partner, as described in Exhibit A.
- IV. **“Deal” or “Lead”:** Shall refer to any prospective End-Use Customer, sometimes also referred to as a Lead, not yet attaining Closed Deal status. The focus of the Referral Partner is to submit “Leads” to BNE’s Senior Associate, Business Development Associate or National Recruiter (collective referred to as the “BNE Liaison”).
- V. **“Letter of Authorization” and/or “LOA”, “Letter of Exclusivity” and/or “LOE”:** Shall refer to documents required by BNE and/or Client, signed by End-Use Customers and used to retrieve critically important information in respect of pricing and contract administration for any respective ESA.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

Brave New Earth, LLC Signature:	Referral Partner Signature:
Printed Name: Alex Rodriguez	Printed Name:
Title: Managing Member	Title:
Effective Date:	Effective Date:

Exhibit A – BNE National Referral Partner Compensation Plan

Level I Referral Partner: This level of participation requires the smallest level of effort and responsibility from the Referral Partner. These responsibilities are as follows:

- Clear and concise introduction of Lead to BNE's Liaison via phone call and/or email
- Periodic involvement throughout the course of the relationship, if required

The Level I Referral Partner earns a ten percent (10%) of the gross revenue amount (Broker Fee) received by BNE in respect of any Prospect referred to the BNE Liaison and which effectively becomes a paying Customer. These amounts are paid monthly and for the life of the Customer.

Initial here if requesting this application: _____

Level II Referral Partner: This level of participation requires a moderate amount of effort and responsibilities from the Referral Partner. These responsibilities are as follows:

- Professional Introduction of Prospect to BNE Liaison via phone and email
- Setting up of introductory conference call with key decision makers, with participation on the conference call
- Initiates request of required Lead documents (an LOA and 2 recent utility bill copies) from Prospect. BNE Liaison will work with you in requesting and collecting the data.
- Ongoing participation as required throughout course of relationship, if required.

The Level I Referral Partner earns a twenty percent (20%) of the gross revenue amount (Broker Fee) received by BNE in respect of any Prospect referred to the BNE Liaison and which effectively becomes a paying Customer. These amounts are paid monthly and for the life of the Customer.

Initial here if requesting this application: _____