

**HUBSPOT PARTNER PROGRAM AGREEMENT**

**Agreement No.:** \_\_\_\_\_

**Between**

**HubSpot, Inc.**

**Address:** 25 First Street  
Cambridge, MA 02141

**Principal Contact:**  
Alyssa Antonell

**Phone:** 1-888-HUBSPOT

**Fax:** 617-812-5820

**Email:** aantonell@hubspot.com

**Partner Name:**

**Address:**

**Principal Contact:**

**Phone:**

**Fax:**

**Email:**

This Agreement consists of (a) this Partner Enrollment Form and (b) the accompanying standard Terms and Conditions. Capitalized terms not elsewhere defined are defined in Section 1 of the Terms and Conditions.

This Agreement governs your enrollment and participation in the program. You represent that you have read and understand all of the provisions of this Agreement. You must accept this Agreement before you can participate in the program. If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to this Agreement. You agree that this Agreement is the complete and exclusive statement of our Agreement relating to our partner and supersedes all prior agreements and other communications relating to the program.

HUBSPOT INC.

Partner: \_\_\_\_\_

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

## **HUBSPOT PARTNER PROGRAM**

### **Terms & Conditions**

#### **1. Definitions**

**“HubSpot”** means the online, Web-based inbound marketing applications and platform provided by us via <http://www.hubspot.com> and/or other designated websites, but excluding any third party applications and websites.

**“HubSpot Terms of Use”** means the terms of use which govern the use of HubSpot and are accessible via <http://www.hubspot.com/terms-of-use>.

**“Membership Qualifications”** means the applicable requirements for participation in the Program in which you are participating as set forth on the Program Policies from time to time.

**“Net Revenue”** means the Subscription Net Revenue or Renewal/Upgrade Net Revenue as applicable.

**“Opportunity”** means, referral of a potential end user of HubSpot who is, in our reasonable determination: (i) a new potential end user and not then or during the prior 60 days, one of our end users, in our active sales process or one of your affiliates or (ii) an existing Qualified End User originally referred by you who renews a Qualified Subscription, purchases additional Qualified Subscriptions, or purchases Qualified Subscriptions for upgrades in the edition of HubSpot; in either case which Qualified Subscriptions result from your specific sales efforts related to such Qualified Subscription within the prior 60 days.

**“Partner User”** shall mean your employee (or contractor that has signed a nondisclosure agreement protecting our information including our rights hereunder) who is authorized by you to represent you in connection with the Program.

**“Program”** means our partner program as defined by the Program Policies.

**“Program Policies”** means the policies and documentation describing the Program, including any policies that may be set forth on website located at <http://www.hubspot.com/partners> (the **“Program Site”**).

**“Subscription Net Revenue”** means, with respect to a Qualified Subscription, the subscription fee actually paid by the Qualified End User by reason of such Qualified Subscription (net of any discounts, taxes payable and subsequent refunds not due to a contract breach by us) when recognized as revenue by us in accordance with generally accepted accounting principles. Net Revenue does not include fees for support, implementation, customization, training, consulting or other professional services, or fees for third-party products or services.

**“Renewal/Upgrade Net Revenue”** means, (i) with respect to the renewal of a Qualified Subscription, the subscription fees actually paid by the Qualified End User by reason of such renewal Qualified Subscription and (ii) with respect to upgrades in the edition of HubSpot, the incremental increase in subscription fees actually paid by the Qualified End User by reason of Qualified Subscriptions for such upgraded additions (in either case net of any discounts, taxes payable and subsequent refunds not due to a contract breach by us), when recognized as revenue by us in accordance with generally accepted accounting principles. Renewal/Upgrade Net Revenue does not include fees for support, implementation, customization, training, consulting or other professional services, or fees for third-party products or services.

**“Qualified End User”** means, in end user of HubSpot pursuant to a Qualified Subscription.

**“Qualified Subscription”** means, in our reasonable determination, a Subscription that is fully executed and if not a renewal or upgrade, is closed within six months of the corresponding Opportunity referral.

**“Subscription”** means, a paid subscription for access to HubSpot enrolling one or more end users.

**“We,” “us” or “our”** means HubSpot, Inc.

**“You” or “your”** means the person accepting this Agreement or the company or other legal entity for which you are accepting this Agreement.

## **2. Program Overview**

### **2.1 Enrollment.**

Your enrollment in the Program requires your completion and acceptance of this Agreement and satisfaction of the Membership Qualifications. Upon satisfaction of the Membership Qualifications and our acceptance of this Agreement, you will be enrolled in the Program. Each of your wholly- and majority-owned subsidiaries that desires to be included as a member in the Program must complete its own Partner Enrollment Form for membership and separately agree to this Agreement.

### **2.2 Membership Qualifications and Program Benefits.**

By enrolling in the Program you certify that you meet the Membership Qualifications for the Program including ensuring that each of your representatives that refer Opportunities to HubSpot complete the “HubSpot Partner Certification.” You further represent that you will continue to meet and comply with such requirements for the duration of your enrollment in the Program. You agree to notify us in writing in the event you no longer meet the Membership Qualifications. Notwithstanding anything to the contrary in this Agreement, if at any time we determine that you do not meet the Membership Qualifications, we may, in our sole discretion, modify or terminate your membership in the Program, effective immediately upon our written notice to you.

The Program Policies are subject to change in our sole discretion. You are responsible for reviewing the Program Policies regularly.

### **2.3 Fees.**

There are currently no fees required for your enrollment into the Program, however, in the future certain Program benefits may be subject to fees as described in the Program Policies. In that case, your continued membership in the Program is at all times subject to your timely payment of any applicable fees for your Program benefits. Fees will be as stated in the Program Policies. Fees are subject to change at our discretion. Payment obligations are non-cancelable and fees paid are non-refundable.

### **2.4 Opt-in to Marketing.**

Your participation in the Program will serve as an opt-in to receive the marketing communications that we may deem relevant to our partners. You will be presumed to have provided appropriate notices and have obtained appropriate consents, if required, from any persons or Partner Users who are signed up to the Program on your behalf. You may elect to opt-out from receiving our marketing materials by contacting us directly.

## **3. Referral Payments.**

Following your enrollment into the Program, we will pay you a referral fee for each Opportunity you submit to us that results in a Qualified Subscription.

### **3.1 Referral Fees.**

Unless otherwise specified in the Program Policies, for each Opportunity that you submit to us that results in a Qualified Subscription, we will pay you a referral fee of 20% of the Net Revenue associated with such Qualified Subscription.

### **3.2 Payments.**

We will bill the Qualified End User directly unless you request that we bill you directly. If we bill the Qualified End-User directly, we will be solely responsible for collecting payment. If we bill you directly, you will be responsible for paying all subscription fees and ensuring that the Qualified End User accept the HubSpot Terms of Use. We will pay referral fees owed to you for any Qualified Subscription quarterly in arrears as further set forth in the Program Policies. We will provide a summary report with each payment showing how the payment was calculated. If either party determines an error was made in the calculation of payment, each party agrees to work diligently and in good faith to resolve the error and to ensure proper payment is made. Any payments made to you under this Agreement will be made by check mailed to your address as noted in your Partner Enrollment Form or by bank transfer to your bank account.

### **3.3 Opportunity Submission.**

**You must complete and submit lead registrations via <http://www.hubspot.com/internet-marketing-company/partners-lead-registration> and as provided in the Program Policies for each sales Opportunity.** We will then qualify the Opportunity and notify you via email of the approval or rejection of such Opportunity. We may, from time to time, refer Opportunities to certain of our partners. If we refer an Opportunity to you, you should process the Opportunity as provided herein unless we notify you otherwise. If the parties exchange information regarding Opportunities, both parties agree to use the information therein solely for purposes related to this Agreement. In submitting personal data regarding an Opportunity, you are responsible for complying with all applicable laws governing your collection, storage, processing, use and transfer of such information. You authorize us to process such data as reasonably required to exercise our rights and perform our obligations under this Agreement. We will not process or use such data in a manner different from that necessary to carry out our obligations under this Agreement, provided however, that we may be required to provide personally identifiable information to third parties to comply with legally mandated reporting, disclosure, or other legal process requirements. As the data provider, you warrant that you have provided all appropriate notices to the data subjects and have obtained all appropriate consents to transfer the data to us and allow its processing according to the terms of this Agreement.

### **3.4 Exclusions from Payment Obligations.**

Notwithstanding any other provisions of this Agreement, you will not be entitled to referral fees or any other compensation on any Subscription if: (a) such compensation is disallowed or limited by federal, state or local law or regulation in the United States or the laws or regulations of your jurisdiction; (b) the applicable Qualified End User prohibits the inclusion of such compensation in the price of the contract or excludes such compensation from its payments to us; (c) the end user has paid or will pay such commissions, referral fees, or other compensation directly to you.

## **4. Resale**

### **4.1 Appointment.**

Subject to the limitations set forth below, if your Partner Enrollment Form specifies that you may resell HubSpot we hereby grant and you hereby accept, a non-transferable, non-exclusive right to (a) demonstrate HubSpot to Opportunities; (b) promote HubSpot to Opportunities; and (c) sublicense the HubSpot to Opportunities that accept the HubSpot Terms of Use.

### **4.2 Orders.**

You shall place orders for HubSpot with us specifying the quantity of HubSpot ordered and the name and address of the Opportunity. We shall confirm our acceptance of an order within fifteen (15) days after initial receipt of such order. All orders not accepted within such fifteen (15) day period shall be deemed to be rejected. No order shall be binding unless acknowledged and accepted in writing or by e-mail by us. The terms and conditions set forth herein shall prevail over any different or additional terms set forth in your order.

#### **4.3 Prices, Discounts and Payment Terms.**

The price of HubSpot shall be subject to change by us at any time, provided, however, that no such price change shall affect orders accepted by us within 10 days after such price change. The prices charged by you to end users for HubSpot shall be at your sole discretion. The Program Policies sets forth (a) the discounts applicable to you with respect to your resale of HubSpot and (b) the commission payable to you by us (in lieu of the discount referenced above in cases where our material involvement is necessary to obtain an order or the order is placed with us). Unless otherwise agreed by the parties in writing, payment shall be made by you separately for each order accepted by us. All payments by you to us shall be made by cash remittance to us within 30 days from the order date. After 30 days, interest shall accrue on monies outstanding from the due date to the date of payments at the lesser of the rate of one and one-half percent (1½%) per month or the maximum legal rate allowed. We may offset any payment owed to you against payments you owe to us.

### **5. Compliance with Applicable Laws**

#### **5.1 Compliance with Applicable Laws.**

You shall comply, and shall ensure that any third parties performing sales or referral activities on your behalf comply, with all applicable foreign and domestic laws, governmental regulations, ordinances, and judicial administrative orders (collectively “**Applicable Laws**”) and shall not engage in any deceptive, misleading, illegal or unethical marketing activities, or activities that otherwise may be detrimental to us, our end users, HubSpot, or to the public. You represent and warrant that your sales activities and receipt of any referral fees under this Agreement are consistent with Applicable Laws. You shall promptly inform us in writing upon becoming aware of any violations of Applicable Laws in connection with this Agreement.

We shall comply with all Applicable Laws in performing our obligations hereunder.

#### **5.2 Disclosure of Third Parties.**

You must notify us in advance if you plan to use any third party subcontractor, consultant, agent, or other intermediary to assist you in selling our products and services under this Agreement, we will have the authority to accept or reject any proposed third party.

### **6. Services, Compliance and Technical Training**

Your sales representatives generating leads for HubSpot must be reasonably capable of effectively delivering our value proposition and must be generally knowledgeable about HubSpot and its interface, advantages and high-level functionality and complete the HubSpot “Inbound Marketing Certification.” We may offer you services and/or technical training for free or for an additional fee as described in the Program Policies. You agree that your sales representatives and other personnel to the extent engaged in marketing and generating leads for HubSpot will use reasonable efforts to participate in the basic online training offered for free by us to our end users generally. As we upgrade HubSpot, your sales representatives and other personnel may be asked to undergo further training to become proficient in generating leads based on HubSpot’s new features and functions. You and your personnel agree to make reasonable, good faith efforts to participate in such further training. You agree that you, your sales representatives, and anyone working on our behalf may be subject to compliance training as determined by us. Failure to agree to compliance training programs may result in a termination of this Agreement.

### **7. Technical Support**

As a member of the Program, you may be eligible to receive certain technical support offerings as described in the Program Policies. Such technical support program offerings are provided under our technical support policies in effect at the time the services are provided. For purposes of this Agreement, technical support does not include support for third party programs or services. Our technical support policies are subject to change at our discretion.

## **8. Licenses**

### **8.1 Our Licenses to You.**

As a member of the Program you are entitled to the following licenses and/or access and use rights as set forth below.

#### **A. HubSpot Subscriptions.**

Upon our providing you with log-in credentials you will be granted a non-exclusive, non-transferable limited right to access and use HubSpot for limited partner purposes described in this Agreement, including the Program Policies and the Terms of Service for HubSpot. Unless otherwise stated in the Program Policies, Subscriptions shall be used solely for: (a) demonstration of HubSpot to potential end users solely in connection with your Program membership, or (b) training on HubSpot for your employees. For clarity, you may be, or become entitled to, receive access to HubSpot for other uses under a separate agreement with us, however, this Agreement shall govern your access to HubSpot to the extent such Subscriptions are provided in relation to your membership in the Program.

#### **B. Marketing Services.**

We grant you a non-exclusive, nontransferable, limited license to use the marketing programs, materials and tools, we provide to you solely for the purpose of creating, executing, and monitoring marketing campaigns for promotion of our products and services provided that at all times you provide attribution to us and receive our prior approval of such campaigns. Your use of such marketing programs, materials and tools is subject to this Agreement and any logo and advertising use guidelines set forth in the Program Policies. You agree to be responsible for any misuse of the Marketing Services by you or any third party using the Marketing Services on your behalf and you agree to use the Marketing Services at your own risk.

You shall cooperate with us to allow for review of your use of the Marketing Services and compliance with our quality and attribution standards. If we, in our sole discretion, determine that your use of the Marketing Services is not in compliance with this Agreement, you shall promptly modify or discontinue your use as directed by us. In the event that Marketing Services include payments to you, then you shall maintain adequate books and records regarding the basis for such payments and shall provide us copies of such records upon request.

#### **C. Access to Salesforce**

When you enroll in the Partner Portal we will provide you with a unique login and access to Salesforce via our Partner Portal. You will have access to Salesforce to manage your partner services. If you are a VAR, you will have access to view records, edit records, and manage your activities and interactions. By enrolling in our Partner Portal, you agree to pay to us 500 USD per Salesforce license per year. Such license(s) will automatically renew each year unless otherwise agreed in writing by the parties. Your use of Salesforce is governed by Salesforce's standard terms and conditions. We do not make any representations or warranties relating to Salesforce and assume no liability relating to your use of Salesforce.

### **8.2 Your License to Us.**

You grant us a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into HubSpot any suggestions, enhancement requests, recommendations or other feedback provided by you relating to the operation of HubSpot.

### **8.3 Trademark Cross License.**

Subject to the Program Policies, each party hereby grants to the other a worldwide, nonexclusive, nontransferable, non-sublicenseable, royalty-free license to use, in your case, "HubSpot," and the associated

logos and, in our case, your company name solely in connection with each party's rights, duties and obligations under this Agreement.

Any use of marks shall be in accordance with the granting party's reasonable trademark usage policies, with proper markings and legends, and subject to granting party's prior written approval. Neither party shall make any express or implied statement or suggestion, or use the other party's marks in any manner, that dilutes, tarnishes, degrades, disparages or otherwise reflects adversely on the other party or its business, products or services. Each party shall cease, or adjust the manner of, its use of any mark of the other party at the request of the other party in its sole discretion. The granting party may withdraw any approval of any use of its marks at any time in its sole discretion.

## **9. Intellectual Property Ownership**

### **9.1 Technology.**

Subject to the limited licenses set forth in this Agreement, nothing in this Agreement transfers or assigns to us any of your intellectual property rights in your applications or your other technology, products or services, and nothing in this Agreement transfers or assigns to you any of our intellectual property rights in HubSpot and Marketing Services, or our other technology, products or services (our "**Property**").

### **9.2 Trademarks.**

Our marks, HubSpot, the "HubSpot" logo, and other of our marks used on our websites are our trademarks or service marks and may not be used in any manner except as expressly permitted herein or with our prior written consent. Your marks are your trademarks or service marks and may not be used in any manner except as expressly permitted herein or with your prior written consent. You shall not include "HubSpot" or "grader" in any of your trademarks or service marks or product, service or company names. You shall not bid on any keyword which is our trademark in any keyword advertising service (e.g. Google AdWords).

### **9.3 Competitive Applications.**

Subject to our and your respective rights and obligations under this Agreement, you acknowledge that we and/or other parties may develop and publish applications that are similar to or otherwise compete with your applications, products or services.

## **10. Restrictions**

### **10.1 Restrictions on Use of HubSpot.**

You are responsible for all activities that occur in Partner User accounts, and for Partner Users' compliance with this Agreement. In no event shall you (a) license, sublicense, sell, resell, transfer, assign, distribute or (except as provided in this Agreement) otherwise commercially exploit or make available to any third party HubSpot in any way, (b) modify or make derivative works based upon HubSpot, (c) "frame" or "mirror" it on any other server or wireless or Internet-based device, (d) send or store any virus, worm, time bomb, Trojan horse or other harmful or malicious code, file, script, agent or programs, (e) interfere with or disrupt the integrity or performance of HubSpot, or the data contained therein, (f) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, or (g) reverse engineer or access HubSpot for the purpose of (i) building a competitive product or service, (ii) building a product using similar ideas, features, functions or graphics of HubSpot, or (iii) copying any ideas, features, functions or graphics of HubSpot. Partner User accounts cannot be shared or used by more than one individual user, but may be reassigned from time to time to new users who are replacing former users who have terminated employment or otherwise changed job status or function and no longer need to use HubSpot under this Agreement.

### **10.2 Additional Restrictions.**

In addition to any other restrictions set forth in this Agreement, your use of any of our Property provided to you hereunder, is further subject to the HubSpot Terms of Use and the restrictions set forth below,

You may not:

- Remove or modify any program markings or any notice of our, or our licensors', proprietary rights;
- Make HubSpot, any materials delivered hereunder, or any materials resulting from the services available in any manner to any third party for use in the third party's business operations, other than as expressly permitted herein or in the Program Policies;
- Use our Property in a manner or take any action that misrepresents your relationship with us or is otherwise misleading or that reflects negatively on us;
- Use or duplicate our Property provided to you for any purpose other than as specified herein, or make our Property available to unauthorized third parties;
- Use our Property for your own internal business operations, or use or make our Property available in any manner to any third party for use in the third party's business operations or for any other commercial or production use, other than as expressly permitted herein (if you wish to provide services to third parties, you must license Hubspot separately for each third party); or
- Create any content or otherwise transmit any information or material that: (a) is false or misleading; (b) is harassing or invades another's privacy, harms minors in any way, or promotes bigotry, racism, hatred or harm against any group; (c) is obscene; (d) infringes another's rights, including but not limited to intellectual property rights; (e) constitutes unsolicited commercial email or "spam"; or (f) violates any applicable laws or regulations. You, and not us, are responsible for all content and other materials that you upload, post, email or otherwise transmit in using our Property.

## **11. WARRANTIES; DISCLAIMERS AND REMEDIES**

**WE DISCLAIM ALL REPRESENTATIONS AND WARRANTIES REGARDING HUBSPOT, WHETHER EXPRESS, IMPLIED OR STATUTORY, ORAL OR IN WRITING, ARISING UNDER ANY LAW, INCLUDING WITH RESPECT TO VALIDITY, NON-INTERRUPTION, ERROR-FREE OPERATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. IN NO EVENT WILL WE BE LIABLE TO YOU OR TO ANY OTHER INDIVIDUAL OR ENTITY AFILIATED WITH YOU FOR ANY CLAIM, LOSS OR DAMAGE ARISING OUT OF THE OPERATION OR AVAILABILITY OF HUBSPOT.**

**WE FURTHER DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, RELATING TO THE MARKETING SERVICES, OR THIRD PARTY SERVICES AND PRODUCTS, INCLUDING WITH RESPECT TO THE PERFORMANCE, FUNCTIONALITY, QUALITY, BENEFITS OR AVAILABILITY OF ALL OF THE FOREGOING.**

## **12. Relationship of the Parties**

This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between you and us, notwithstanding the term "partner". Nothing on any Subscription order or preprinted form shall add to or vary the terms of this Agreement. Neither party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other party, nor to represent the other party as agent, employee, franchisee, or in any other capacity. There are no third-party beneficiaries to this Agreement. You shall not make any proposals, promises, warranties, guarantees, or representations on our behalf or in our name.

## **13. Term, Termination & Renewal**



### **13.1 Term.**

This Agreement shall remain in effect for one year from the date of your acceptance of this Agreement (“Effective Date”). On the one-year anniversary of the Effective Date, and each one-year anniversary of such date thereafter, this Agreement shall automatically renew, subject to any applicable fees, if any, in effect at such time, unless either party gives the other party written notice at least 30 days prior to the renewal date of its intent not to renew the term.

### **13.2 Termination for Cause.**

Either party may immediately terminate this Agreement upon written notice to the other party if (a) the other party becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, or makes an assignment for the benefit of creditors, (b) the other party is acquired by or becomes the terminating party’s competitor, (c) the other party breaches its confidentiality obligations under this Agreement or infringes or misappropriates the terminating party’s intellectual property rights, (d) it determines, based on one or more end user or prospect complaints, that the other party’s actions or statements creates a significant risk of harm to the terminating party’s reputation or end user relationships, (e) the other party has committed fraud or misrepresentation with respect to entering into and/or the performance of this Agreement, (f) a party learns of circumstances that give it reason to believe that the other party has engaged in illegal conduct or unethical business practices in connection with performance of this Agreement; (g) the other party, or any of its owners or employees responsible for providing services under this Agreement have become the target of an investigation or prosecution by any governmental authority for alleged corruption, or (h) the other party has violated Section 5 herein (“Compliance with Applicable Laws”). Subject to the foregoing, either party may terminate this Agreement upon 10 days’ written notice to the other party of such other party’s material breach if the breach is not cured during that period. We may suspend your participation in the Program during any period in which you are in breach of the Agreement. Termination of this Agreement for cause shall be in addition to, and not in lieu of either party’s other legal rights and remedies.

### **13.3 Termination for Convenience.**

Either Party may terminate this Agreement for convenience upon 30 days’ written notice to the other party.

### **13.4 Effect of Termination.**

Upon termination or expiration of this Agreement, you shall cease to be a member of the Program and all of your rights to use our Property shall cease. Provisions that survive termination or expiration include those relating to limitation of liability, payment, and others which by their nature are intended to survive.

## **14. Confidentiality**

### **14.1 Definition of Confidential Information.**

As used herein, “Confidential Information” means all confidential information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Our Confidential Information shall include, without limitation, non-public aspects of our and third party applications, HubSpot, and end user data to which you have access through our system. Your Confidential Information includes, but is not limited to your applications, business and marketing plans, technology and technical information, products designs, and business processes. Confidential Information of each party shall include the terms and conditions of this Agreement, discussions regarding the partner relationship. However, Confidential Information (except for our end user data) shall not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party,

or (d) was independently developed by the Receiving Party without breach of an obligations owed to the Disclosing Party.

#### **14.2 Protection of Confidential Information.**

Except as otherwise permitted in writing by the Disclosing Party (a) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (b) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

#### **14.3 Compelled Disclosure.**

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

### **15. LIMITATION OF LIABILITY**

**NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, DATA, OR DATA USE, EVEN IF SUCH PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. OUR MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL BE LIMITED TO THE APPLICABLE FEES YOU PAID US UNDER THIS AGREEMENT FOR THE YEAR DURING WHICH A CLAIM IS MADE. NOTWITHSTANDING THE FOREGOING, THE ABOVE LIMITATIONS ON LIABILITY SHALL NOT APPLY TO YOUR INDEMNIFICATION OBLIGATIONS UNDER SECTION 16 HEREUNDER.**

### **16. Indemnification**

Subject to this Agreement, you shall defend, indemnify and hold us harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings made or brought against us by a third party alleging (a) that any data entered by you into HubSpot or provided to us, or your use of HubSpot in violation of this Agreement, or your products or services, including your applications or consulting services, infringes, misappropriates or violates any intellectual property rights of, or has otherwise violated applicable law with respect to, a third party, (b) your breach of any representation, warranty, or agreement relating to your products and services, including your application or consulting services; and (c) your breach of this Agreement; provided, that we (i) promptly give you written notice of the Claim; (ii) give you sole control of the defense and settlement of the Claim (provided that you may not settle or defend any Claim unless it unconditionally releases us of all liability); and (iii) provide to you, at your cost, all reasonable assistance.

### **17. Miscellaneous**

#### **17.1 Cooperation on Disputes**

You shall cooperate with us with regard to any inquiry, dispute or controversy in which we may become involved and of which you may have knowledge. Such cooperation shall include disclosure of relevant documents and financial information, and interviews of your personnel. Such obligation shall continue after the expiration or termination of this Agreement.

## **17.2 Audit Rights**

We shall be allowed reasonable access to your books, records and other documentation related to this Agreement or your work with us, and shall have the right to audit you on a periodic basis.

## **17.3 Entire Agreement**

You agree that this Agreement and the information which is incorporated into this Agreement by written reference (including reference to information contained in a URL or referenced policy herein), together with any applicable additional written terms posted on the Program Site related to our Property, or addendum attached hereto, constitutes the complete Agreement between the parties governing your membership in the Program and this Agreement shall supersede all prior or contemporaneous Agreements or representations, written or oral, regarding the subject matter herein and your membership in the Program. If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any addendum or exhibit hereto, the terms of such addendum or exhibit shall prevail. It is expressly agreed that the terms of the body of this Agreement and any addendum hereto shall supersede the terms in any Subscription order or other non-HubSpot ordering document and no terms included in any such Subscription order or other non-HubSpot ordering document shall apply to the Program or to any products and/or services ordered. This Agreement may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online through the Program Site by authorized representatives of you and us.

## **17.4 Assignment**

Neither you nor we may assign any rights or obligations under this Agreement without the prior written consent of the other (not to be unreasonably withheld or delayed), provided either party may assign this Agreement without consent of the other in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of the assigning party's assets not involving a direct competitor of the other party. Any purported assignment in violation of this section shall be void.

## **17.5 Manner of Giving Notice.**

Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) personal delivery, (b) the second business day after mailing, (c) the second business day after sending by confirmed facsimile, or (d) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to you shall be addressed to the contact designated by you for your relevant partner account, and in the case of billing-related notices, to the relevant billing contact designated by you. Notices to us shall be addressed as provided in the Program Policies.

## **17.6 Agreement to Governing Law and Jurisdiction.**

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, without regard to the conflict of laws provisions thereof. In the event either party initiates an action in connection with this Agreement or any other dispute between the parties, the exclusive venue and jurisdiction of such action shall be in the state and federal courts in Boston, Massachusetts.

## **17.7 Waiver of Jury Trial.**

Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.