

CONSTANT CONTACT® PARTNER AGREEMENT

Last revised April 2024

THIS CONSTANT CONTACT PARTNER AGREEMENT (THE "AGREEMENT") IS BY AND BETWEEN CONSTANT CONTACT, INC., A DELAWARE CORPORATION ("CONSTANT CONTACT"), AND YOU OR YOUR COMPANY, ORGANIZATION OR OTHER LEGAL ENTITY FOR WHOM YOU HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT ("PARTNER"). BY CLICKING ON THE "I HAVE READ AND AGREE TO THE TERMS & CONDITIONS" BUTTON, YOU ARE REPRESENTING THAT YOU HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF PARTNER. IF YOU DO NOT HAVE SUCH AUTHORITY OR YOU DO NOT AGREE WITH THIS AGREEMENT YOU MUST NOT CLICK ON THE "I HAVE READ AND AGREE TO THE TERMS & CONDITIONS" BUTTON AND PARTNER WILL NOT BE ELIGIBLE FOR PARTICIPATION IN THE CONSTANT CONTACT PARTNER PROGRAM. THIS AGREEMENT SHALL BE EFFECTIVE ON THE DATE THAT CONSTANT CONTACT ACCEPTS THIS AGREEMENT AND NOTIFIES PARTNER AT THE EMAIL ADDRESS PARTNER PROVIDED DURING THE REGISTRATION PROCESS (THE "EFFECTIVE DATE"). IF CONSTANT CONTACT DOES NOT ACCEPT THIS AGREEMENT IN WRITING WITHIN 10 DAYS, THE AGREEMENT IS DEEMED REJECTED AND NULL AND VOID. CONSTANT CONTACT AND PARTNER ARE EACH HEREINAFTER SOMETIMES INDIVIDUALLY REFERRED TO AS THE "PARTY" AND COLLECTIVELY AS THE "PARTIES."

Constant Contact may change this Agreement by posting a revised Agreement at any time and the revised Agreement will be effective immediately upon posting or the effective date indicated in the new Agreement, as applicable. If Partner does not agree with the revised Agreement, Partner must immediately discontinue use of the Services and cease participation in the Constant Contact Partner Program.

Definitions.

"Constant Contact Materials" means any information, content and materials provided by Constant Contact to Partner describing the Services for use in marketing the Services.

"Customer" means any Managed Customer or Partner-Referred Customer that has not been removed from Partner's account by Constant Contact (i) following such Customer's request or (ii) because such Customer requires access to certain templates or other features and belongs under another partner, as determined by Constant Contact (e.g. a franchisee who requires access to a franchisor's templates).

"Customer Data" means information relating to Customers collected by or for Constant Contact in connection with the Services, including the Customer's contact information.

"Digital Marketing Services" means a variety of online tools and resources to collect visitor email addresses and to create, launch, and manage online email, survey, event and other campaigns provided by Constant Contact to businesses and organizations.

"Intellectual Property" means any and all intellectual property or proprietary rights under any jurisdiction including (i) Marks, and all goodwill associated therewith and symbolized thereby; (ii) inventions, discoveries and ideas, whether patentable or not, and all patents, registrations, and applications thereof; (iii) published and unpublished works of authorship, whether copyrightable or not (including databases and other compilations of information), copyrights therein and

thereto, and registrations and applications thereof; (iv) trade secrets; (v) all moral rights in the foregoing (that is, the right to claim authorship of or object to the modification of any work); and (vi) all applications, renewals, extensions, restorations and reinstatements of the foregoing.

"Managed Customer" means a third party that has subscribed to the Services where the Partner has complete access to such third party's account (including its Subscriber Data) by means of the Partner Console.

"Marks" means the trademarks, including registered and common law trademarks, trade names, service marks, logos, domain names and designations of a Party.

"Partner Console" means a partner console that Constant Contact may make available to Partner in Constant Contact's sole discretion.

"Partner-Referral Customer" means a third party that has subscribed to the Services through use of the Referral Link where the Partner does not have access to such third party's account (including its Subscriber Data) by means of the Partner Console.

"Referral Link" means a personalized link provided by Constant Contact that will take a prospective Customer to the Trial Sign-Up Page.

"Services" means, collectively, the Digital Marketing Services and any other Constant Contact online products and services, and related offerings, features and functionalities, including email and digital marketing services, the Constant Contact website and any related sub-site, user interface designs, applications, including our mobile application, processes, software, source code, application programming interfaces, systems delivered or accessible through any media or device, images that are made available by Constant Contact through any email or website builder tools, designs, templates, text, graphics, video, information, audio and other files, support, additional services and all related materials and documentation, and any and all enhancements and modifications thereto howsoever made, provided by or on behalf of Constant Contact to Partner pursuant to this Agreement.

"Subscriber" means for each Customer, the individuals or entities contained within a Services database for such Customer's use of such Services.

"Subscriber Data" means all information and data relating to Subscribers collected by Constant Contact in connection with the Customer's use of the Services, including Subscribers' names, addresses and e-mail addresses.

"Trial Sign-Up Page" means a Constant Contact website, from which prospective Customers may subscribe to the Services.

"User Agreements" means Constant Contact's Terms of Service, Acceptable Use Policy, Privacy Notice, and any other acceptable use policy, content restrictions, user agreements, and other terms and conditions governing use of the Services, generally available through the Constant Contact website, as each of the foregoing may be amended by Constant Contact from time to time in its sole discretion.

1. Activities and Responsibilities.

1.1 Appointment. Constant Contact wishes to engage Partner on a non-exclusive basis to provide the resale, referral, promotion and marketing services set forth in this Agreement, and Partner accepts such engagement and wishes to refer, promote and market the Services.

Partner understands that a prerequisite to participation in this program may be successful passage of a background check, as determined in Constant Contact's sole discretion.

1.2 Services Resale. Constant Contact may permit Partner to resell some or all of the Services to prospective Customers through use of the Partner Console. In the event that Partner is to be invoiced directly for all or a portion of its Customer's use of the Services in accordance with Constant Contact policies and procedures, Partner shall be solely responsible for all payments due to Constant Contact in connection with such use, whether or not each Customer pays Partner for such use.

1.3 Link from Partner website to Trial Sign-Up Page. Promptly following the Effective Date (defined below), Constant Contact will make the Referral Link available to Partner.

1.4 Marketing and Promotion. Partner shall actively promote and market the Services on the Partner website and in promotional messages to Customers and prospective Customers in accordance with Constant Contact's then-current policies and requirements. Partner's marketing efforts may include efforts such as sharing leads; disseminating marketing collateral; conducting training sessions, sales meetings, and informational briefings; making joint sales presentations and product demonstrations; and developing marketing strategies with respect to its marketing obligations hereunder. It is expected that Partner will adhere to the same industry best practices with respect to its marketing activities as Constant Contact. In connection with its marketing activities hereunder, Partner agrees to represent itself accurately with respect to any Constant Contact certification it may have.

1.5 Marketing Collateral. Constant Contact shall provide Partner with marketing collateral (which may include electronic marketing materials and corporate logo, marketing brochures, product lists, tutorials or demonstrations) concerning the Services for Partner to distribute to prospective Customers and other valid purposes. Constant Contact may also provide opportunities for Partner to modify certain of the Constant Contact Materials expressly designated for such purpose by incorporating Partner's Marks, subject to Partner's compliance with Section 4(c) hereof.

1.6 Limitations. Partner is authorized to represent to prospective Customers only those facts about the Services as are stated in current Services descriptions and advertising or in the Constant Contact Materials. During the Term, Partner may only use the Services to promote the Services and Partner's products and services to current or prospective Customers (for example, Partner may not send out emails on behalf of its Customers by means of Partner's Constant Contact Services account or create and set up Facebook campaigns for its Customers by means of Partner's Social Campaigns Services account).

1.7 Constant Contact Policy and End User Requirements. Partner agrees to Constant Contact's policies posted on the Constant Contact website and in effect from time to time, including the User Agreements. Partner shall not distribute or otherwise make available the Services to any third party (each an "End User") except through the Referral Link, the Trial Sign-Up Page or the Partner Console. In any case, Partner shall not make the Services available to an End User unless such End User obtains a subscription for the Services (directly or indirectly through Partner) and acknowledges and agrees to abide by, or Partner is authorized to bind End User to abide by, the User Agreements. Partner agrees to use commercially reasonable efforts to ensure its Customers comply with the User Agreements and will cooperate with Constant Contact to investigate any alleged breaches thereof.

1.8 Expert Program. In connection with Partner's appointment as a marketing partner of Constant Contact, Partner will be entitled to take advantage of the Expert Program Schedule currently in effect (which can be found at http://www.constantcontact.com/schedule_____) (the "Program Schedule"), which is incorporated herein by reference and may be amended by Constant Contact from time to time. Partner is responsible for reviewing the Program Schedule from time to time and remaining aware of the requirements and benefits offered therein. The Program Schedule, including any minimum standards and revenue share described therein, is subject to change at any time in Constant Contact's sole discretion, and if Partner does not agree to any such changes, Partner must terminate this Agreement. Constant Contact will use good faith efforts to notify Partner prior to the effectiveness of any significant change to the Program Schedule. Trying to manipulate data in an attempt to circumvent the Program Schedule is prohibited. Any disputes about any benefits owed to Partner under the Program Schedule or otherwise must be submitted to Constant Contact in writing within sixty (60) days of the date such benefits were made available or payments were made by Constant Contact. Partner agrees to waive all disputes not brought within the sixty (60) day period, and all such charges will be final and not subject to challenge. Constant Contact's obligation to provide Partner with any of the benefits set forth on the Program Schedule shall take effect upon the Effective Date and continue for the duration of the Term, but shall not survive beyond the termination of the Agreement. Partner will not be entitled to receive any benefits under the Program Schedule with respect to Customers that are not in compliance with the User Agreements.

1.9 Certification. Partner will not hold itself out as a "Certified" partner of Constant Contact without the prior written consent of Constant Contact and unless it has fulfilled and maintained the then- current requirements applicable to such designation. Constant Contact may withdraw Partner's right to promote, market or otherwise use such designation at any time in Constant Contact's sole discretion.

1.10 Additional Programs. If Partner participates in the Constant Contact Solution Provider Lead Passing Program, Partner agrees to the terms and conditions of set forth on Exhibit A attached hereto and made a part of this Agreement. If Partner participates in any other Constant Contact programs, Partner agrees to comply with any applicable terms and conditions thereof.

1.11 Consent to Contact. By entering into this Agreement, Partner consents to receiving email, text or any other type of messages from Constant Contact to inform it of changes or additions to the Services, this Agreement, the Solution Provider Program and any other matter related to the foregoing and for general marketing purposes (Partner may unsubscribe from marketing messages at any time, but not transactional messages). Partner acknowledges that Constant Contact may, but is not obligated to, monitor or record any telephone conversations and chat texts for quality control purposes, for purposes of training employees and for Constant Contact's own protection.

1.12 Managed Customers. In the event that Partner adds Managed Customers to its Partner account, Partner represents and warrants that (i) Partner has the right to act on behalf of the Managed Customers as further described in this Agreement and (ii) Partner shall comply with all applicable laws, statutes, rules and regulations with respect to the Managed Customers' accounts. Further, Partner acknowledges that Constant Contact may send both transactional and marketing emails to Partner's Unmanaged Customers and will send transactional emails

(but not solely marketing emails) to Partner's Managed Customers, all in accordance with the User Agreements.

2. Intellectual Property.

2.1 IP Ownership. Constant Contact shall retain sole and exclusive right, title, and interest to each Constant Contact website, the Services, the technology underlying or related to the Services, Constant Contact's Intellectual Property, including all intellectual property rights in and to all aspects of the Services, and the Constant Contact Materials. Partner shall retain sole and exclusive right, title, and interest to Partner's Intellectual Property. Except as licensed herein, this Agreement does not transfer any Intellectual Property rights between the Parties.

2.2 Marks License.

(a) **Constant Contact Marks**. Constant Contact grants to Partner a non-exclusive, non-transferable, royalty-free right and license to use and publicly display the Constant Contact Marks solely (i) in connection with any activities set forth herein, (ii) with prior written approval of Constant Contact in connection with each use, and (iii) in accordance with Constant Contact's standard trademark guidelines or other restrictions imposed in the approval.

(b) **Partner Marks**. Partner grants to Constant Contact a non-exclusive, non-transferable, royalty-free right and license to use and publicly display the Partner Marks solely (i) in connection with any activities set forth herein, (ii) with prior written approval of Partner in connection with each use, and (iii) in accordance with Partner's standard trademark guidelines provided to Constant Contact or other restrictions imposed in the approval.

(c) **Trademark Review and Approval**. Each Party will have the right to pre-approve any and all uses of such Party's Marks, including any marketing collateral (whether off line or online) and press releases related to the Agreement.

(d) **Termination Based on Trademark Usage**. Each Party shall be entitled to terminate this Agreement without penalty if, in its reasonable discretion, the use by the other Party of its Marks tarnishes, blurs, or dilutes its Marks or misappropriates the associated goodwill and such problem is not cured within three (3) business days of receiving notice of the problem.

2.3 Sales and Marketing Materials License. Constant Contact grants Partner the non-exclusive, non-transferable, non-sub licensable right and license to: (i) use the Constant Contact Materials during the Term solely in conjunction with the marketing and promotion of the Services, and (ii) modify certain of the Constant Contact Materials expressly designated for such purpose by incorporating Partner's Marks, subject to Constant Contact's prior written approval. All such modified materials will be deemed Constant Contact Materials under this Agreement, except that Constant Contact's ownership of the Constant Contact Materials shall not include any of Partner's Marks included therein. Partner agrees that Partner will not at any time during the Term or thereafter assert or claim any interest in or do anything that may adversely affect the validity of the Constant Contact Materials or Constant Contact Marks, or any other materials, trademark, trade name or product designation belonging to or licensed to Constant Contact.

2.4 Data License. Partner hereby grants to Constant Contact a non-exclusive, worldwide, royalty-free, sublicensable, transferable, perpetual, irrevocable license to use the Customer Data and Subscriber Data to provide the Services to Partner and Customers and to communicate with Customers regarding the Services (including with respect to the marketing

and sale of other Constant Contact products and services). Partner represents that it has the right to grant the foregoing rights to Constant Contact.

2.5 Partner Directory: Presentations. Notwithstanding anything set forth herein to the contrary, Constant Contact shall have the right, but not the obligation, to (i) include Partner's name and logo in its partner directory and marketplace unless Partner provides Constant Contact with written notification it does not want to be included therein and (ii) promote or market any presentations, seminars, or webinars given by Partner. Partner acknowledges that Constant Contact is under no obligation to have or maintain a partner directory or marketplace.

3. **Confidentiality and Non-Disclosure and Data Privacy.**

3.1 Confidential Information

(a) Defined. A Party's "Confidential Information" is defined as any information of the disclosing Party, which (i) if disclosed in a tangible form is marked using a legend such as "Confidential" or "Proprietary" or if not so marked, should be reasonably understood by the receiving Party from the context of disclosure or from the information itself, to be confidential, or (ii) if disclosed orally or visually is declared to be confidential or, if not so declared, should be reasonably understood by the receiving Party from the context of disclosure or from the information itself to be confidential. "Confidential Information" of Constant Contact shall include any data about its customers or users that it makes available to Partner from time to time in its sole discretion ("Constant Contact User Data").

(b) Mutual Obligations. Each Party shall (i) hold the other Party's Confidential Information in confidence, (ii) not disclose such Confidential Information to third parties nor use the other Party's Confidential Information for any purpose other than as required to perform its obligations under this Agreement or as expressly permitted hereby and (iii) use the same degree of care to protect the confidentiality of the other Party's Confidential Information that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care). Such restrictions shall not apply to Confidential Information that (A) is already known by the recipient, (B) becomes publicly known through no act or fault of the recipient, (C) is received by recipient from a third party without a restriction on disclosure or use, or (D) is independently developed by recipient without reference to the other Party's Confidential Information. Where Confidential Information is required to be disclosed by a court, government agency, regulatory requirement, or similar disclosure requirement, the Party subject to such requirement shall immediately notify the disclosing Party upon learning of the existence or likely existence of such requirement and shall use reasonable efforts to avoid such disclosure and, if necessary, use reasonable efforts to obtain confidential treatment or protection by order of any disclosed Confidential Information. The Parties' respective obligations to maintain the confidentiality of information disclosed hereunder shall survive the expiration or early termination of this Agreement or until such time as such information becomes public information through no fault of the receiving Party.

(c) Ownership. All Confidential Information, unless otherwise specified in writing, shall remain the property of the disclosing Party.

3.2 Data Privacy. Partner agrees to treat Personal Information (as defined below) in accordance with the provisions set forth below. With respect to Personal Information that is also Constant Contact's Confidential Information, the following obligations shall be in addition to the obligations

set forth above (the Parties agreeing that in the event of any conflict, the provision affording the greater protection to the information shall control):

(a) Partner may receive or have access to certain personal, individually-identifiable information in connection with this Agreement, including Constant Contact User Data (the "Personal Information").

(b) Partner shall only use or disclose the Personal Information as necessary to perform its obligations under this Agreement, or pursuant to the unambiguous prior consent of the individual (for which Partner has the responsibility of obtaining), or as otherwise required by law.

(c) Partner shall implement reasonable precautions to protect the Personal Information from loss; misuse; and unauthorized access, disclosure, alteration, or destruction. Partner shall promptly report to Constant Contact any improper or prohibited use or disclosure of the Personal Information of which it becomes aware.

3.3 Subscriber Data. Constant Contact and Partner each acknowledge that it shall not make any use of the Subscriber Data except as necessary for permitted use of the Services by Customers and/or Subscribers or as otherwise consented to by a Subscriber.

4. **Term and Termination.**

4.1 Term. This Agreement shall commence as of the Effective Date and shall remain in effect for a period of one (1) year from the Effective Date (the "Initial Term"). The Agreement shall thereafter automatically renew for successive one (1) year periods (each a "Renewal Term"; all such Renewal Terms together with the Initial Term, the "Term"), unless either Party sends written notice of non-renewal at least thirty (30) days prior to expiration of the Initial Term or Renewal Term, as applicable.

4.2 Right to Terminate. Notwithstanding any other provision hereof, this Agreement may be terminated as follows: (a) by either Party with fifteen (15) days' advance written notice; (b) at any time by Constant Contact immediately, without advance notice and in its sole discretion if Partner does not log into the Partner Console within thirty (30) days of the Effective Date; (c) in the event either Party materially breaches any of the provisions hereof, and such breach is not curable, this Agreement shall be immediately terminable by the non-breaching Party upon written notice to the other Party (any violation of the confidentiality, non-disclosure and data privacy provisions hereof shall constitute a non-curable breach); or (d) immediately by either Party in the event that the other Party becomes insolvent, files or is forced to file any petition in bankruptcy, or makes an assignment for the benefit of its creditors.

4.3 Effect of Termination. Any termination of this Agreement shall not release Partner from paying any fees owed to Constant Contact for any periods prior to or after termination. Upon termination of this Agreement for any reason, all rights granted to Partner herein shall immediately cease, including any fee waivers granted to Partner in connection with the Partner Marketing Account and any Partner benefits described on the Program Schedule, and Partner shall immediately cease all marketing and promotion of the Services and all use of the Referral Link and the Trial Sign-Up Page. Additionally, Partner shall immediately delete, destroy or return all originals and copies of any Constant Contact Confidential Information, including all documentation, manuals, instructions and other information associated with the products and services, and upon request, provide Constant Contact with certification thereof. Without in any way limiting the foregoing, the Parties agree that following termination of this Agreement,

Constant Contact may continue to make the Services available directly to Customers, without any liability or obligation to Partner.

5. Representations and Warranties; DISCLAIMER.

5.3 General. The Parties each represent and warrant as of the Effective Date and for as long as this Agreement is in effect as follows: (i) if the Party is an entity, it is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was organized, and the execution and delivery of this Agreement and compliance with all provisions of this Agreement are within the corporate power and authority of such Party; and (ii) the Agreement has been duly executed and constitutes a valid and binding agreement, enforceable in accordance with its terms. Partner further represents and warrants that the person clicking on the “I have read and agree to the terms and conditions” button has the authority to enter into this Agreement on behalf of Partner and bind Partner to the terms and conditions hereof.

5.4 DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EACH PARTY HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY OF ITS PRODUCTS OR SERVICES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. CONSTANT CONTACT MAKES NO WARRANTY THAT THE SERVICES WILL MEET USER REQUIREMENTS OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

6. **Indemnification**. Partner shall defend, indemnify and hold Constant Contact harmless from and against any lawsuit, claim, damage, liability, or expense (including reasonable attorneys' fees) incurred by Constant Contact as a result of any third-party claim against Constant Contact resulting from or relating to Constant Contact's use of the Partner Marks, the content on Partner's website, Partner's products or services, Partner's unauthorized marketing, promotion, use or distribution of the Services, Partner's failure to abide by the applicable terms of any User Agreement, Partner's breach of this Agreement, or the infringement or misappropriation of any patent, copyright, trademark, or other intellectual property right of any third party that relates to any information provided to Constant Contact by Partner.

7. **Limitation of Liability**. EXCEPT FOR PARTNER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, (a) EACH PARTY'S LIABILITY FOR ANY AND ALL CLAIMS ARISING UNDER THIS AGREEMENT, UNDER ANY LEGAL THEORY, SHALL NOT EXCEED THE AMOUNT OF FEES PAID BY PARTNER TO CONSTANT CONTACT UNDER THIS AGREEMENT DURING THE SIX (6) MONTHS PRECEDING THE CLAIM AND (b) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF DATA, LOST PROFITS, BUSINESS INTERRUPTION, OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, INDIRECT, OR SPECULATIVE DAMAGES.

8. **Compliance with Laws; Privacy Policy**. Partner agrees (a) to comply with all applicable federal, state, local, and foreign laws, statutes, rules, and regulations (“Laws”), including Laws regarding telemarketing, data privacy, email and facsimile marketing, customer solicitation, and all applicable guidelines of the Direct Marketing Association (“DMA”), (b) not to engage in any form of harassment or fraud, (c) to comply with any applicable third party agreements, and (d) not to send unsolicited commercial email (spam) using the Services or otherwise. Partner acknowledges and agrees that it is Partner's sole responsibility to determine the applicability of,

and ensure its own compliance with, any such Laws. Partner further agrees to have in place and comply with appropriate privacy policies and security features in accordance with its contractual obligations and applicable Laws.

9. Keyword Noncompete. During the Term, and for a period of six (6) months thereafter (the “Noncompete Period”), Partner will not purchase, either directly or indirectly, or bid, either directly or indirectly, on any Keywords owned or offered through an Internet search engine (including Google, Yahoo, or MSN/Bing) that compete with Constant Contact or any of its Services or services, including Constant Contact’s name, Marks, product names, and associated terms. In addition, Partner will not, directly or indirectly, engage in any activities that could result in confusion among consumers as to the source of the ad (such as the overuse of an authorized trademark, trademark cyber-stuffing or other similar activities). For purposes of this Agreement, “Keywords” shall mean a word used in a search request by an Internet search engine user which, when used in such Internet search engine, a particular sponsor’s ad will appear near to the search results.

10. Foreign Corrupt Practices Act, UK Bribery Act and Other Improper Payments. In connection with each Party’s compliance with the U.S. Foreign Corrupt Practices Act (“FCPA”) and the UK Bribery Act (and similar laws of other jurisdictions), each Party agrees not to offer, promise, approve or make payments, gifts, or anything of value to foreign government officials or private parties for the purpose of influencing such individuals to obtain or retain business. In addition, neither Party shall make any payments with a wrongful or corrupt intent, including payments a Party knew or should have known were intended to influence a private party, government official or government.

11. Export Compliance. The Services and any standalone utilities that may be provided to Partner for use with the Services may be subject to export laws and regulations of the United States, the European Union and other jurisdictions. Partner represents that it is not named on any U.S. government, European Union member or other jurisdiction’s denied-party list. Partner shall not permit Customers to access or use the Services in a U.S.-embargoed country, in violation of any U.S. or European Union export law or regulation from where Partner and/or Customers use the Services.

12. Miscellaneous Provisions.

12.1 Relationship of the Parties. The Parties are independent contractors and have no power or authority to assume or create any obligation or responsibility on behalf of the other. This Agreement will not be construed to create or imply any partnership, agency, or joint venture.

12.2 Non-exclusive. Nothing contained in this Agreement shall be construed as creating an exclusive relationship between Partner and Constant Contact.

12.3 Expenses. Except as otherwise specified herein or as otherwise mutually agreed upon by the Parties, each Party will bear its own costs of performing under this Agreement (including with respect to any marketing activities).

12.4 Taxes. Each Party shall be liable for all taxes, duties, levies or tariffs or charges of any kind imposed by any federal, state, or local governmental entity with respect to the net income recognized by such Party in connection with this Agreement.

12.5 Overdue Payments; Offset. If Partner has an overdue balance owed to Constant Contact, it will not be eligible to receive incentives or rewards, including the Solution Provider New Account Bonuses and any similar offerings. Constant Contact further reserves the right to withhold payment, or offset amounts owed to Partner, if it reasonably determines that such amounts owed are as a result of any fraudulent or illegitimate behavior, including the fraudulent use of credit cards or other means of payment. Partner agrees to cooperate with Constant Contact in its investigation of any of the foregoing.

12.6 Governing Law and Jury Trial Waiver. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, U.S.A., except for its conflicts of laws principles. The Parties consent to the exclusive jurisdiction of, and venue in, the state and federal courts in Boston, Massachusetts. CONSTANT CONTACT AND PARTNER IRREVOCABLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT.

12.7 Public Announcements. All media releases, public announcements or public disclosures (including promotional or marketing material) by either Party relating to this Agreement are prohibited without the prior written consent of both Parties.

12.8 Assignment; No Waiver. This Agreement binds and is for the benefit of the successors and permitted assigns of each Party. Partner may not assign this Agreement or any rights under it, in whole or in part, without Constant Contact's prior written consent. Any attempt to assign this Agreement other than as permitted above will be null and void. Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision.

12.9 Force Majeure. Neither Party hereto shall be responsible for any failure to perform its obligations under this Agreement if such failure is caused by acts of God, war, strikes, revolutions, lack or failure of transportation facilities, laws or governmental regulations or other causes that are beyond the reasonable control of such Party. Obligations hereunder, however, shall in no event be excused but shall be suspended only until the cessation of any cause of such failure.

12.10 Control over Services. Partner acknowledges that (i) the Services and any related services may be subject to temporary shutdowns due to cause beyond Constant Contact's reasonable control; and (ii) subject to the terms of this Agreement, Constant Contact retains sole right and control over the development, content and conduct of its products and services.

12.1 Responsibility. Partner agrees to ensure that each of its employees, contractors, subcontractors, agents and team members comply with Partner's obligations under this Agreement.

12.2 Entire Agreement. Except as set forth in the next sentence, this Agreement (including the Exhibits hereto and other documents referenced herein) constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes any prior oral, written or online agreements. If Partner has previously entered into a "Business Partner Services Agreement" (or any similar agreement) with Constant Contact, then the Parties hereby agree that such prior agreement shall be terminated and shall be superseded by the terms and conditions set forth herein. Each Party acknowledges and agrees that the other has not made

any representations, warranties or agreements of any kind, except as expressly set forth herein. Except as expressly set forth herein, this Agreement does not govern any use by Partner of the Services and any use by Partner of the Services shall be governed by the User Agreements and any other agreement Partner agrees to in connection with its use of such Services.

12.3 Severability. If any provision of this Agreement shall be held illegal or unenforceable, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

12.4 Notices. Partner agrees that Constant Contact may provide notice to Partner by emailing such notice to the email address listed by Partner during Partner's registration or mailing it to the street address designated by Partner during Partner's registration. Such notice shall be considered to be received by Partner within 24 hours of the time it is emailed to Partner unless Constant Contact receives notice that the email was not delivered. If the notice is sent by mail, Constant Contact will consider it to have been received by Partner three (3) business days after such notice has been sent. Any notice to Constant Contact must be sent by postal mail or overnight courier to: Constant Contact, Inc., Attention: General Counsel, 1601 Trapelo Road, Waltham, Massachusetts 02451, with a copy to: Constant Contact, Inc., Attention: Vice President, Local Services, 1601 Trapelo Road, Waltham, Massachusetts 02451.

12.5 Survival. The Sections of this Agreement relating to Confidential Information and Non-Disclosure and Data Privacy, Indemnification, Limitation of Liability, Disclaimer, Keyword Noncompete and this Section (Miscellaneous) shall survive any termination or expiration of this Agreement.

EXHIBIT A

LEAD PASSING TERMS

During the Term of this Agreement, if Partner is eligible for and elects to participate in the Constant Contact Expert Lead Passing Program (the "Program"), the following terms and conditions shall also apply:

- 1. Services.** Partner will provide customer support to each Constant Contact trialers (each, a "Lead") whose contact information it receives in its Partner Console in accordance with the terms of this Agreement and the Program Guidelines, as amended from time to time (currently located in the Constant Contact partner portal) (the "Partner Support Services"). Partner will only use the Constant Contact User Data (defined in the Agreement) to perform the Partner Support Services and only in compliance with its obligations hereunder. Partner agrees to perform the Partner Support Services in a professional and workmanlike manner and in accordance with industry standards and any scripts, guidelines or other specifications provided by Constant Contact from time to time. Any additional services mutually agreed to by the Parties shall be set forth in a Statement of Work. Each Statement of Work shall be governed by the terms and conditions of this Agreement by reference.
- 2. Service Levels.** Constant Contact may survey the Leads and use any other method of assessing Partner performance in connection with the Program. If Partner does not meet Constant Contact's service level requirements, Constant Contact may, among other things, no longer provide Partner with Leads.
- 3. License and Deletion.** Nothing in this Agreement will be construed to convey any right, title or interest in the Constant Contact User Data to Partner. Constant Contact hereby grants Partner a limited, non-exclusive, revocable license to use such Constant Contact User Data solely to the extent required to deliver the Partner Support Services. Partner's license to use the Constant Contact Data will expire automatically the earlier of (i) the date the Lead's information is removed from Partner's Partner Console (solely with respect to the removed data), and (ii) the expiration of the Term (with respect to all Constant Contact User Data). Partner agrees to destroy all Constant Contact User Data and any copies thereof in Partner's possession or control upon such expiration.
- 4. Record Retention; Audit.** Upon reasonable notice from Constant Contact, Partner will provide Constant Contact with access to any records and supporting documentation as may be reasonably requested by Constant Contact in connection with or relating to the Service for the purposes of Constant Contact performing audits and inspections of Partner's performance.
- 5. Security.** Partner acknowledges and agrees that Constant Contact may do background checks on Partner and its employees and may run a security audit prior to or during the Term and agrees to provide Constant Contact with reasonable assistance therewith. At a minimum, Partner shall ensure that Partner and each of its employees, contractors, subcontractors, agents and team members with access to Constant Contact User Data follow industry-standard information security practices, which includes (a) having updated anti-virus software running on their systems, (b) ensuring that operating system and software patches are up-to-date, (c) selecting strong passwords and storing them in an encrypted manner and (d) protecting their systems with locked screens when unattended.