



INSTAPAGE AFFILIATE PROGRAM – TERMS AND CONDITIONS

These Affiliate Program Terms and Conditions (the “Agreement”) set forth the terms of participation in the Affiliate Program of Instapage Inc., hereinafter referred to as “Instapage” or the “Company”.

A participant in the Instapage Affiliate Program is hereinafter referred to as “Affiliate” or “you”.

1. General.

This agreement contains the terms and conditions that apply to the Affiliate’s participation in the Instapage Affiliate Program (the “Program” or “Affiliation Program”).

Carefully read these terms and conditions, which represent a legally binding agreement between Instapage and you. You must agree and accept the terms of this agreement in order to become an Instapage Affiliate.

By clicking the “I Agree” box, you agree to enroll as an Affiliate in the Instapage Affiliate Program and certify that (A) you have read this agreement and understand all of its contents; and (B) you agree to be bound by all of the terms and conditions of this agreement, including without limitation, all documents, policies and procedures incorporated herein by reference and any possible future amendment thereof or additions there to; and (C) you have no conflict or other restriction in entering or performing this agreement or any part thereof, including receipt of all the applicable approvals required under the applicable law for the performance of this agreement by you.

Violation of any of the terms of this agreement or any other document incorporated into this agreement by reference will result in the immediate termination of your participation in the program, without any need to inform you in writing, and for forfeiture of any outstanding Affiliate Fee payments earned during the violation. You agree to participate in the program at your own risk and expense.

2. Definitions.

For purposes of this Agreement, the following terms shall mean:

2.1. “Ad(s)” means anchor text, banners, button links, text links, or other graphic devices that Instapage makes available to the Affiliate and that is used for linking from the Affiliate Site to the Instapage Site.



2.2. “Affiliate Application” means the application submitted by an Affiliate to participate in the Program, as contained on the Instapage Site.

2.3. “Affiliate Fee” or “Fee” or “Referral Fee” means the approved and undisputed amount due and payable one time only to an Affiliate in accordance with Section 8 below.

2.4. “Affiliate Site” means websites owned, controlled or used by an Affiliate, on which the Affiliate will place their links to the Instapage Site.

2.5. “Affiliate Term” the term of the activity of an Affiliate as a participant in the Program commencing upon approval of Affiliate’s participation and ending according to the provisions of Section 11 below.

2.6. “Affiliate Transaction” means a purchase by a Referred User (referred to Instapage through Affiliate’s Tracking Codes) of an Instapage Paid Plan.

2.7. “Affiliate Transactions Per Month” means the aggregate number of Affiliate Transactions during each calendar month.

2.8. “Content Restrictions” has the meaning ascribed to it in Section 3.3 herein.

2.9. “Dashboard” means a dedicated online interface made available by Instapage to participants of its Affiliate Program, through which the Affiliate may manage and monitor its participation in and performance under the Affiliate Program.

2.10. “Fraud Traffic” means any deposits or traffic generated at the Affiliate Site(s) and/or via the Affiliate’s activity through illegal means or in bad faith or with the intent to defraud the Company, regardless of whether or not it actually causes harm to the Company. Fraud Traffic includes but is not limited to spam, false advertising, deposits generated by stolen credit cards, collusion, manipulation of the service, system, bonuses or promotions, offers to share the Affiliate Fees, directly or indirectly, with Users, and any other unauthorized use of any third party accounts, copyrights or trademarks.

2.11. “Intellectual Property Rights” means copyrights, trademark rights, patent rights, trade secrets, moral rights, right of publicity, authors’ rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the laws of the United States or any other state, country or jurisdiction.

2.12. “License” has the meaning ascribed to it in Section 4.3 herein.



2.13. “Mirror” means creating an identical copy of any Instapage website or web page and placing it under a different URL.

2.14. “Opt Out Request” has the meaning ascribed to it in Section 5.3.4 herein.

2.15. “Paid Referred User(s)” means a Referred User that has purchased a Paid Plan and is beyond the free trial and refund periods.

2.16. “Referred User” means a user that opened an account with Instapage for the first time, through the Affiliate’s Tracking Codes from the Affiliate Site, email, or other communications.

2.17. “Special Sale Terms” means such special discounts or other special benefits which Instapage may determine to apply to certain Plans.

2.18. “Sponsored Link” means a link offered, created, or displayed for a fee (whether on a “cost-per-click” basis, commission, or any other commercial arrangement) by any internet search engine, portal, sponsored advertising service or other search or other referral service which uses search terms or keywords to identify, draw attention to, or direct internet traffic to an internet site.

2.19. “Tracking Code(s)” means specific unique code(s) that Instapage will provide the Affiliate to track the traffic and users which arrive via the Affiliate activity (including but not limited to, from the Affiliate Site). This Tracking code will be a special “tagged” URL link to be used by the Affiliate in creating links to the Instapage Site. Instapage tracks its users by cookies, which shall expire within one-hundred-twenty (120) days. If any users do not use cookies, including if the applicable cookies have expired, such users will not be considered as a Referred User of the Affiliate.

2.20. “User” means Referred Users.

2.21. “Instapage Marks” means, without limitations, Instapage trademarks, service marks, trade dress, trade names, corporate name, logos and any other distinctive brand features used in or related to the Company’s business.

2.22. “Plan” or “Paid Plan” means any of the charged plans offered by the Company on the Instapage Site, as may be updated and/or modified from time to time by the Company. A charged plan which: (i) was either cancelled within the free trial period; or (ii) was refunded in accordance with the Company’s refund policies or the applicable law, as may be from time to time; or (iii) was not duly and fully paid by Referred User(s), will not be considered as a Paid Plan.



2.23. “Instapage Site” means www.instapage.com and/or any other website as may be added by the Company, in its sole and absolute discretion, from time to time.

3. Joining the Program.

3.1. To enroll in the Affiliate Program, the Affiliate shall submit a complete Affiliate Application via the Instapage Site. Affiliate must provide full, true and accurate information in the Affiliate Application.

3.2. Instapage may reject an Affiliate Application if Instapage determines, in its sole discretion, that the Affiliate Site or activities are unsuitable for the Program for any reason. If, at any time, Instapage determines, at its sole discretion, the Affiliate Site or activity, is unsuitable for the Program, Instapage may terminate the Affiliate’s participation in the Program.

3.3. Unsuitable Affiliate Sites or activities may include, but may not be limited to: sites containing or activities related to illegal, offensive, abusive, infringing content, or which incorporate images or content that is, in any way, unlawful, harmful, threatening, defamatory, obscene, harassing or racially, ethically or otherwise objectionable, including without limitation to sites or activities that: promote violence; promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age; promote illegal activities or incorporate any materials which infringe or assist others to infringe on any copyright, trademark or other intellectual property rights of any third party (collectively, “Content Restrictions”); or that degrade the Instapage brand in any way (at the sole and absolute discretion of Instapage).

3.4. A rejection of an Affiliate Application by Instapage shall not prohibit the Affiliate from reapplying to the Program at any other time thereafter provided that the Affiliate complies with the provisions of this Agreement.

4. Tracking Codes and Ads.

4.1. To permit accurate tracking, reporting, and Referral Fee accrual, Instapage will provide the Affiliate with a specific Tracking Code. The Affiliate must ensure that each of the links between its Affiliate Site and Instapage Site properly utilizes the Tracking Codes provided to the Affiliate.

4.2. The Affiliate is not authorized to alter, modify or change any of the Tracking Codes. Instapage will not be held liable to the Affiliate with respect to any failure by the Affiliate to use such Tracking Codes. Instapage will not be responsible for errors which may occur in the tracking of transactions if the Affiliate has made or caused any such modification to the Tracking Code. For the avoidance of doubt, the Affiliate will use the Tracking Code only for the purposes of the Program. Any other use of the Tracking



Code will be considered void and, subject to the sole discretion of Instapage, shall be deemed as breaching this Agreement and will not entitle the Affiliate to any Fee, which is based on such unauthorized use.

4.3. Instapage hereby grants to the Affiliate a non-exclusive, non-transferable, limited license to use the Instapage Marks contained in the Ads provided to the Affiliate by Instapage for the sole purpose of this Agreement. Instapage will provide the Affiliate with the necessary information to allow the Affiliate to make appropriate Ads from the Affiliate Site to the Instapage Site. Affiliate may not use any of the Instapage Marks in any manner other than as contained in the Ads. Furthermore, the Affiliate may not modify any of the Ads in any way, whatsoever. The License shall expire upon the expiration or termination of the Affiliation Term.

4.4. The Affiliate shall display the Ads in good taste, adjacent to any with the first or most prominent use of such Ads in the piece of advertising means, in which such Ads appear, subject to other requirements as Instapage may from time to time impose and provide to the Affiliate, including Instapage trademark guidelines. The Affiliate may not use the Ads and the Instapage Marks contained therewith in a manner that, in the sole discretion of Instapage, is disparaging or otherwise portrays the Company in a negative light. The Affiliate shall have no other right, title or interest in or to the Ads and Instapage Marks contained therewith other than as specified in the limited License granted herein.

4.5. The Affiliate will be solely responsible for the content and manner of its marketing activities. All marketing activities must be professional, proper and lawful under applicable rules or laws.

4.6. Instapage may at any time, without prior notice, require the Affiliate to remove or modify the Ads, or dynamically replace the Instapage creative or text with creative or text suitable to the Company, judged at the sole and absolute discretion of Instapage.

4.7. As between the Affiliate and Instapage, the Company shall own all right, title and interest, including all Intellectual Property Rights, in and to the Instapage Site, the Program and Instapage Marks.

5. E-mails, Publications, and Social Media.

5.1. If Affiliate sends, or causes to be sent, any messages or communications by electronic means, including but not limited to email and instant messages (“Emails”) in connection, directly or indirectly, with this Agreement and/or the Program, then the Affiliate agrees, acknowledges, represents and warrants that all such Emails shall be in full-compliance with all applicable federal and state laws and regulations regarding the use of electronic messages, including without limitation the Controlling the Assault of



Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”) and the Children’s Online Privacy Protection Act of 1998 (“COPPA”) and all other laws in the applicable the Affiliate and Affiliate Site and including, but not limited to, all European laws and Directives and the Federal Trade Commission regulations.

5.2. The Affiliate agrees to not utilize SPAM in promoting Instapage. Instapage maintains a ZERO tolerance policy towards the sending of SPAM, including, but not limited to, unsolicited commercial E-mails. This action may result in the immediate suspension or termination of the Affiliate account with a cancellation of and possible forfeiture of any pending Fees. The Affiliate will also be in violation of this Agreement and subject to legal action and be held liable for any financial loss incurred by Instapage.

5.3. SPAM is defined as including, but not limited to, the following:

5.3.1. Send, initiate or procure the sending of an Email to any person who has either not explicitly requested to receive such messages (or has explicitly requested to receive no further Emails) specifically from the Affiliate, including without limitation for the purposes of sending unsolicited bulk email, executing any “mass mailings” or “email blasts,” or for the purpose of spamming any public forum, including without limitation, any blog, message board, classified listings, auction sites, altnet, newsnet, newsgroups, or similar service.

5.3.2. Employ any false or deceptive information regarding the Affiliate’s identity, or regarding the intent, subject, or origin of the message or fail to include accurate information regarding the Affiliate identity, and the intent, subject, and origin of the Email.

5.3.3. Exploit documented or undocumented security holes on any client or server machine.

5.3.4. Fail to (i) include clear, valid, and conspicuously displayed “From” and “Subject” lines in the Email, (ii) include a functioning return address (or hyperlink) in the Email that enables the recipient to submit a request to receive no further messages from the Affiliate (“Opt Out Request”) for no less than thirty (30) days from the date the Email was sent; or (iii) honor any Opt-out Request within ten (10) days of receipt of such Opt-out request by the Affiliate.

5.3.5. Obtain email addresses via automated means or send any Email to any address which was obtained via automated means, including via the automated combination of names, letters, or numbers, dictionary attacks, or the use of spyware, viruses, or other means of bypassing system security or invading consumer privacy.



5.3.6. Employ any fraudulent, deceptive, false or misleading information in connection with the Emails.

5.3.7. Send any commercial marketing Email or promotion to, or collect any personally identifiable information from any person who is under eighteen (18) years of age.

5.4. The Affiliate may use Tracking Codes within Emails that the Affiliate sends to registered users of the Affiliate Site.

5.5. The Affiliate agrees not to copy or mirror the look and feel of the Instapage Site. The Affiliate shall also not use any means to create the impression that the Affiliate Site is our Instapage Site or any part of our Instapage Site. For example, the Affiliate should not put any Instapage Marks in the header or footer of their Affiliate Site.

5.6. The Affiliate agrees not to copy and re-publish any content (including text, image, video, or audio) already created and/or published by Instapage. This includes directly translating content into any other language. If you have found useful information on the Instapage Site, you may (i) cite the information with a quote AND a backlink to the Instapage Site, or (ii) re-phrase the text and publish your own account (still citing Instapage and including a backlink to the Instapage Site).

5.7. The Affiliate agrees not to create excessive or unnatural backlinks to the Instapage Site. For example, the Affiliate will not put "Landing Page" at the footer of the Affiliate Site and link to the Instapage Site.

5.8. The Affiliate shall not create social media accounts or set-up groups, forums, pages, communities, or other channels branded with Instapage Marks. The Affiliate shall also not use any of these channels to create the impression that they operate as, represent the views of, or are a part of Instapage.

5.9. The Affiliate agrees not to manually, or through the use of any automated services, promote Instapage or Tracking Codes across social media or other channels in a manner the Company finds to be excessive, judged at the sole and absolute discretion of Instapage.

6. Compliance with Law and Regulations; No conflict.

6.1. The Affiliate shall comply with any and all regulations, statutes and applicable laws of the United States or any other state, country or jurisdiction in which he acts related to Email, and/or electronic communications. It is the Affiliate's responsibility to be aware of all such regulations, statutes, laws, and Endorsement Guides.



6.2. The Affiliate may only send Emails containing a Tracking Code and/or a message regarding Instapage or Instapage's Program. Failure by the Affiliate to abide by this Section 7, CAN-SPAM Act or COPPA, in any manner, will be deemed a material breach of this Agreement by the Affiliate and foreclose any and all rights the Affiliate may have to any Affiliate Fee.

7. Prohibition on Sponsored Links.

7.1. The Affiliate shall not use, procure, bid on, or otherwise arrange for a Sponsored Link which uses or includes any of the Instapage Marks, or any misspellings or similar alterations thereof.

7.2. The Affiliate shall not register, procure, or use any internet domain name that includes any of the Instapage Marks or any variations thereof.

8. Referral Fees.

8.1. For every new Paid Plan purchased by a Referred User through the Affiliate's Tracking Codes and subject to the compliance of the Affiliate with the provisions of this Agreement, Affiliate shall be entitled to receive Affiliate Fees in accordance with the Referral Fees established in Section 8.5.

8.2. Notwithstanding the foregoing Section 8.1, in the event that any Referred User purchases a new Paid Plan through the Affiliate's Tracking Codes, and such purchase is subject to Special Sale Terms, the Affiliate Fees payable to the Affiliate (if any) shall be subject to and reduced in accordance with the discount or other special benefits applicable to the Paid Plan under the Special Sale Terms.

8.3. During the Term of this Agreement, Instapage shall keep track of any Referred User by attaching such Referred User a Tracking Code which shall be kept for a period of one-hundred-twenty (120) days, provided that such period is within the Affiliation Term. If within such period the Referred User has not registered as a Paid Referred User, then the Affiliate will not be entitled to any Affiliate Fees with respect to such user, even if at a later time such Referred User does enroll in a Paid Plan.

8.4. Instapage is entitled to grant additional rewards to any of its affiliates, at the sole discretion of Instapage.

8.5. It is hereby clarified that a Referral Fee of 50% of the revenue from a Paid Plan is payable to the Affiliate on the first month's purchase of a Paid Plan made by a Referred User. For every month thereafter, in which a Referred User continues to pay for any Paid Plan, a Referral Fee of 30% of the revenue from the Paid Plan is payable to the Affiliate.



8.6. Affiliate agrees not to use the Affiliate Program to earn a commission on their own account or on any customer account for which the Affiliate is directly employed by, judged at the sole and absolute discretion of Instapage.

9. Affiliate Fee Payment and Reporting.

9.1. Instapage will generate periodic reports summarizing the sales activity of the Referred Users as relevant and necessary for purposes of calculating each Affiliate's Fee, which will be available to Affiliate in real time via the Dashboard. The form, content and frequency of the reports shall be determined by Instapage at its sole discretion and may be updated from time to time.

9.2. Affiliate Fees will be paid within thirty-five (35) to sixty-five (65) days of Instapage receiving payment from a Referred User for a Paid Plan, with the exception of suspicious activity as referenced in Section 9.5 below.

9.3. Instapage will pay Affiliate Fees on Tracking Codes that are automatically tracked by Instapage's affiliation system and reported via the Dashboard. Instapage will not pay Affiliate Fees unless the Tracking Code is tracked by Instapage's affiliation system and reported via the Dashboard.

9.4. All payments of Affiliate Fees will be due and payable in United States Dollars only, except as otherwise determined by Instapage in its sole discretion. Payment will be made through PayPal, or any other method chosen by Instapage, in its sole discretion. Affiliate is responsible to provide Instapage with full and accurate details as required for it to remit the Affiliate Fees, and shall be solely liable for any delay in payment resulting from its failure to duly and timely provide Instapage with such details.

9.5. In the event of any activity deemed suspicious by Instapage, at its sole determination, Instapage may delay payment of the Affiliate Fees to the Affiliate for up to one hundred and eighty-five (185) days to verify the relevant transactions. In the event that Instapage determines any activity to constitute Fraud Traffic, it shall recalculate or withhold the Affiliate Fees accordingly at its sole discretion. It is hereby clarified that in any event that Instapage determines that the Affiliate is involved, directly or indirectly, in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to Instapage, including without limitation to the Instapage Site, Tracking Codes and/or Users, Instapage shall have the right, in addition to any other right or remedy available to it under this Agreement or applicable law, to render the Tracking Codes assigned to such Affiliate inoperative, and immediately block Affiliate access to the Program, with no compensation to the Affiliate. The Affiliate hereby irrevocably waives any claim or demand against Instapage, its directors, officers, shareholders or employees in respect of such action taken by Instapage.



9.6. The Affiliate is responsible for the payment of all taxes applicable to the conduct of the Affiliate's business.

10. Instapage Transactions Processing Services Policies and Pricing.

10.1. Instapage will process transactions placed by Users who used the Tracking Codes from the Affiliate Site to the Instapage Site.

10.2. Instapage reserves the right to reject transactions that do not comply with any certain reasonable requirements that Instapage may periodically establish.

10.3. Instapage will be responsible for all aspects of transactions processing and fulfillment.

10.4. Instapage will track purchases generated by Users referred through the Affiliate Site. To permit accurate tracking, reporting, and Affiliate Fees accrual, the Affiliate shall ensure that Tracking Codes are properly formatted. Instapage will not be responsible for improperly formatted Tracking Codes.

10.5. Instapage may change the pricing, policies and operating procedures at any time consistent with applicable laws. For example, Instapage will determine the prices to be charged for services in accordance with Instapage's own pricing policies. In the event that such changes affect items that Affiliate already has presented on the Affiliate Site, the Ads or any other information provided by Affiliate to third parties in respect with this Agreement and its participation in the Program, Affiliate must track such changes and reflect them in the Affiliate Site or in any other relevant marketing means.

11. Affiliation Term and Termination.

11.1. The term of the Affiliate's participation in the Program shall commence upon the Company's acceptance of the Affiliate Application and shall end upon provision of a termination notice by either party in accordance with the provisions of this Section 11.2 (the "Affiliation Term").

11.2. Either party may terminate Affiliation Term at any time, with or without cause.

11.3. Subject to Section 11.4 herein, termination of the Affiliation Term will result in the deactivation or deletion of the Affiliate's account or its access to the Affiliate account in the Instapage Site and Dashboard, and the forfeiture and relinquishment of all potential or to-be-paid Affiliate Fees in the Affiliate account.



11.4. Subject to the provisions of Section 8 above, and except as stated otherwise, upon termination of the Affiliation Term, Affiliate will be entitled to receive Affiliate Fees for Referred User accrued during the Term of this Agreement.

11.5. In the event of a material breach of this Agreement by Affiliate, Instapage may, at its sole and absolute discretion, terminate the Affiliation Term immediately, without prior notification, and the Affiliate will not be entitled to receive any unpaid Affiliate Fees, which accrued prior to such termination.

11.6. Upon the termination of the Affiliation Term for any reason, the Affiliate shall promptly remove all Tracking Codes, Ads and other Program related content from Affiliate Site or any other communication means used by the Affiliate. The Affiliate will immediately cease use of, and remove from Affiliate Site, all links to Affiliate Site, and all of Affiliate Marks, and all other materials provided by or on behalf of Affiliate to the Affiliate pursuant hereto or in connection with the Program.

11.7. Any provisions of this Agreement that by their express terms do, or by their nature should survive termination of Affiliation Term, shall continue to be in force despite the termination of the Affiliation Term.

12. Confidentiality.

12.1. Instapage may disclose to the Affiliate certain information as a result of the Affiliate's participation in the Program, which information we consider to be confidential (herein referred to as "Confidential Information"). For purposes of this Agreement, the term "Confidential Information" shall include, but not be limited to: (i) any modifications to the terms and provisions of the Program made specifically for the Affiliate or Affiliate Site and not generally available to other customers; (ii) price guidelines, future service releases, trade secrets, know-how, inventions, processes, programs, schematics, data, pricing and discount schedules, customer lists, financial information and sales and marketing plans relating to the Company or the Company's services. Confidential Information shall also include any information that Instapage designates as confidential during the term of this Agreement. Confidential Information shall not include information which is: (a) previously known to the other party without obligation of confidence or without breach of this Agreement; (b) which is publicly disclosed (other than by the Affiliate) either prior or subsequent to the Affiliate's receipt of such information; (c) required to be disclosed by the other party by law or by the order of a court or similar judicial or administrative body.

12.2. Affiliate shall at all times, both during the Term and at all times thereafter, keep and hold such Confidential Information in the strictest confidence, and shall not use such Confidential Information for any purpose other than as may be reasonably necessary for the performance of its duties pursuant to this Agreement, without Instapage's prior written consent.



13. General Provisions, Responsibilities of the Affiliate, Representations and Warranties.

13.1. Affiliate hereby warrants and represents that he/she is over the age of eighteen (18) and in all respects Affiliate is qualified and competent to enter into this agreement.

13.2. Affiliate will provide accurate and complete details regarding his/its identity and personal details such as: PayPal account, address or other required information.

13.3. Affiliate will be solely responsible for the development, operation, and maintenance of Affiliate Site and Affiliate's activities and for all materials related thereto. Affiliate will indemnify and hold Affiliate harmless from all claims, damages and expenses incurred by Instapage due to any third party claims relating to the development, operation, maintenance, manner and contents of the Affiliate Site or activities.

13.4. Affiliate hereby represents and warrants to Instapage that materials posted on their Affiliate Site do not violate or infringe upon the rights of any third party, and that materials posted on their Affiliate Site are not libelous or otherwise illegal nor may cause the Affiliate to violate any of its representations and obligations under this Agreement. Instapage disclaims all liability for all such matters.

13.5. As a condition to Affiliate's participation in the Program, the Affiliate hereby represents and warrants that during the Term of this Agreement, the Affiliate will comply with all laws, ordinances, rules, regulations, orders, licenses, permits, judgments, decisions or other requirements of any governmental authority as applicable to the Affiliate, whether those laws are now in effect or later come into effect during the Term of this Agreement.

13.6. This Agreement has been duly and validly executed and delivered by the Affiliate (by acceptance of its terms) and constitutes the Affiliate's legal, valid, and binding obligation, enforceable against the Affiliate in accordance with the terms contained herein.

13.7. The execution, delivery, and the performance by the Affiliate of duties pursuant to this Agreement will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate: any provision of law, rule, or regulation to the extent applicable; any order, judgment, or decree applicable or binding upon the Affiliate's assets or properties; any provision of Affiliate's by-laws or certificate of incorporation, or any agreement or other instrument applicable to Affiliate or binding upon Affiliates assets or properties.

13.8. No consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made by the



Affiliate in connection with the execution, delivery, and performance of this Agreement or the taking by the Affiliate of any other action hereunder.

13.9. To the best of the Affiliate's knowledge, there is no pending threatened claim, action, or proceeding against them, or any affiliate thereof, with respect to the execution, delivery, or consummation of this Agreement, or with respect to any intellectual property infringement, and, to the best of your knowledge, there is no basis for any such claim, action or proceeding.

13.10. Affiliate understands that Instapage may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this Agreement or operate sites that are similar to or compete with the Affiliate Site.

13.11. Instapage has the right, in the Company's sole discretion, to monitor the Affiliate Site at any time and from time to time to determine if the Affiliate is in compliance with the terms of this Agreement. Any deviations from the guidelines and treatment described in this Agreement must be approved in advance and in writing by Instapage.

14. Relationship of Parties.

14.1. Instapage and the Affiliate are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.

14.2. The Affiliate will have no authority to make or accept any offers or representations on the behalf of Instapage. The Affiliate will not make any statement, whether on their Affiliate Site or otherwise, that reasonably would contradict anything in this Agreement.

15. Disclaimers.

15.1. Instapage makes no express or implied warranties or representations with respect to the Agreement, the Program, and the information to be delivered pursuant hereto. Including, without limitation, warranties of fitness, merchantability, non-infringement, or any implied warranties arising out of a course of performance, dealing, trade usage or fitness for a particular purpose.

15.2 Instapage makes no representation as to any of the information found on the Instapage Site. The materials on the Instapage Site and for the Affiliated Sites are provided "As Is" without any express or implied warranty of any kind. Instapage does not warrant the accuracy or completeness of the information, text, graphics, links or other items contained on the Instapage Site. Any of the information offered on the Instapage Site may change at any time without notice.



15.3. Should the materials or services provided prove defective and/or cause any damage to equipment or any loss or inconvenience to the Affiliate or anyone claiming through the Affiliate, the Affiliate assumes the entire cost and responsibility for them.

15.4. The Affiliate will indemnify and hold harmless Instapage, its subsidiaries, officers, employees, agents, and third parties from and against any claims, liabilities, losses, costs, damages or expenses (including attorney's fees) arising, directly or indirectly, in connection with Affiliate's operations or website or out of any disputes between Affiliate and any other party relating to this Agreement or the participation in the Program, the Site(S) or to services provided by Instapage.

16. Limitations of Liability.

16.1. Under no circumstances shall Instapage, its subsidiaries, officers, directors, employees or suppliers be held liable for any direct or indirect damages and/or losses, to the Affiliate, User, and/or other third party that may arise due to "downtime" and/or availability of the Instapage Site or the Program. Moreover, Instapage and its subsidiaries, officers, directors, employees or suppliers shall not be held liable for any losses of any kind that may result due to downtime in the program and/or any other third party's down time.

16.2. Notwithstanding anything to the contrary contained in this agreement, Instapage, its subsidiaries, officers, directors, employees or suppliers will not be liable to the Affiliate with respect to any subject matter of this agreement under any contract, negligence, tort, strict liability, or other legal or equitable theory for any indirect, incidental, consequential, special, punitive or exemplary damages (including, without limitation, loss of goodwill or actual or anticipated revenue, profits or lost business), even if Instapage, its subsidiaries, officers, directors, employees or suppliers have been advised of the possibility of such damages.

17. Modification.

17.1. Instapage may modify any of the terms and conditions contained in this Agreement, at any time and in its sole discretion. Notice of any change by e-mail, to the Affiliate's address as provided to Instapage, or the posting on our Site of a change notice or a new agreement, is considered sufficient notice to the Affiliate of a modification to the terms and conditions of this Agreement. Modifications may include, but are not limited to, changes in the scope of available Affiliate Fees, payment procedures and schedules, and Affiliation Program rules.

17.2. Notwithstanding the foregoing Section 17.1, the Referral Fees may be altered, modified or changed by Instapage, from time to time, in its sole and absolute discretion, provided that Instapage will notify Affiliate of such change of the Referral Fees. Affiliate



Fees earned prior to such change will be paid according to the conditions in effect prior to such changes. Referral Fees earned after such change is in effect will be paid according to the new conditions of the amended Referral Fees effective date at which the payment has been made.

17.3. If any modification is unacceptable to the Affiliate, their sole recourse shall be to terminate this Agreement. The Affiliate's continued participation in the Program following posting of a change notice or a new agreement on the Instapage Site will constitute a binding acceptance of such change.

18. Miscellaneous.

18.1. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

18.2. The failure of each of the parties to exercise or enforce any right or provision of the conditions and terms of this Agreement shall not constitute a waiver of such right or provision. Any failure on the part of Instapage to enforce the Affiliate's strict performance of and adherence to any provision of this Agreement will not constitute a waiver of the Company's right to subsequently enforce such provision or any other provision of this Agreement.

18.3. This Agreement constitutes the entire understanding between the parties regarding to specific subject matter covered herein. This Agreement supersedes any and all prior written or verbal contracts or understandings between the parties hereto and neither party shall be bound by any statements or representations made by either party not embodied in this Agreement.

18.4. If any dispute arises in connection with the performance of this Agreement and cannot be amicably resolved, such dispute shall be solely and finally governed by and be construed according to the laws of the US, without regard to the conflict of laws provisions thereto. Any dispute arising under or in relation to this Agreement shall be exclusively resolved in the competent courts of San Francisco, California in the United States of America.

18.5. The rights and obligations of each party hereunder shall inure to the benefit of the respective successors and assigns of the parties hereto, provided that, except as expressly provided herein, the Agreement and any rights or obligations hereunder shall not be assigned or delegated by the Affiliate without the prior written consent of Instapage (which shall not be unreasonably withheld).



19. Independent Investigation.

19.1. Instapage encourages the Affiliate to consult with legal and/or financial and/or tax and/or accounting advisors prior to entering the Program.

19.2. The Affiliate acknowledges and agrees that nothing herein and no statement by Instapage or any of its employee or other person associated with the Company has prevented the Affiliate in any way from seeking such advice before entering into this Agreement.

19.3. The Affiliate has independently evaluated the desirability of participating in the Program and he/it is not relying on any representations or statements other than as set forth in this Agreement.

19.4. The Affiliate has read this agreement carefully and understands it, has had the opportunity to consult with counsel and accept the obligations, which it imposes upon the Affiliate without reservation. The Affiliate has also taken into account the limitation of liability and warranty disclaimer provisions of this agreement prior to accepting this agreement. No promises or representations have been made to the Affiliate to induce their acceptance of this agreement. The Affiliate agrees to the terms of this agreement voluntarily and freely.

Last Updated: June 9, 2016