



GREENHOUSE SOFTWARE, INC.  
MASTER SUBSCRIPTION AGREEMENT

Last Updated: May 27th, 2015

THIS AGREEMENT GOVERNS LICENSEE'S ACQUISITION AND USE OF GREENHOUSE'S SERVICE. BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, LICENSEE AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL SIGNING THE ORDER FORM FOR LICENSEE IS SIGNING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT HE OR SHE HAS THE AUTHORITY TO BIND THAT COMPANY OR OTHER LEGAL ENTITY.

## 1. SCOPE OF AGREEMENT

This Agreement governs Greenhouse's provision of services to Licensee ("Services"). The Services which Greenhouse is to provide Licensee are described in one or more ordering documents (each such document, an "Order Form"), each of which is hereby incorporated into this Agreement by reference. In order to be binding each Order Form must be signed by both parties. The parties may add Order Forms from time to time during the term of this Agreement.

## 2. PROPRIETARY RIGHTS

(a) License to Services. Subject to the terms and conditions of this Agreement, Greenhouse grants to Licensee during the Term a non-exclusive, non-transferable, non-sublicensable, license to access and use the Services Licensee orders solely for the purposes described on the applicable Order Form.



(b) Restrictions on Use of Services. The Services are licensed to Licensee for internal use only. In connection with Licensee's use of the Services, Licensee will comply with all applicable laws, rules and regulations. Licensee will not, and will not permit any third party to:

- (i) copy, modify, translate, or create derivative works of the Services;
- (ii) reverse engineer, decompile, disassemble or otherwise attempt to reconstruct, identify or discover any source code, underlying ideas, underlying user interface techniques, or algorithms of the Services;
- (iii) lend, lease, offer for sale, sell or otherwise use the Services for the benefit of third parties; or
- (iv) attempt to circumvent any license, timing or use restrictions that are built into the Services.

(c) Greenhouse Ownership of Services. Except for the rights granted in Section 2(a) above, Greenhouse retains all right, title and interest, including all intellectual property rights, in and to the Services. Licensee acknowledges that the Services include Greenhouse's valuable trade secrets and improper use or disclosure would cause Greenhouse irreparable harm. Accordingly, Licensee agrees to use the Services solely as authorized in this Agreement. Licensee further acknowledges that the license granted pursuant to this Agreement is not a sale and does not transfer to Licensee title or ownership of the Services or a copy of the Services, but only a right of limited use. ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER ARE RESERVED TO GREENHOUSE.

(d) Licensee Data. Subject to the terms and conditions of this Agreement, Licensee grants to Greenhouse a limited, non-transferable (except pursuant to Section 11(a) below) license to use the information and data entered into the Services by Licensee and/or Licensee personnel, or by any third parties acting on behalf of Licensee or at Licensee's request, including job applicants or recruiting agencies ("Data") for the purpose of providing the Services. Licensee represents and warrants that: (i) it owns the Data posted by it on or through the Services or otherwise has the right to grant the license set forth in this Section 2(d); (ii) the posting and use of Data on or through the Services does not violate the privacy rights, publicity rights, copyrights, contract rights, intellectual property rights, or any other rights of any person; and (iii) the posting of Data on the Services does not result in a breach of contract between Licensee and any third party. Greenhouse may



calculate aggregate, anonymized statistics about its customers' Data and use those statistics (but not the underlying Data) for purposes of sales, marketing, business development, product enhancement, or customer service.

### 3. USE OF THE SERVICES

a) Greenhouse's Responsibilities. Greenhouse will make the Services available in accordance with the Greenhouse Service Level Agreement described at [http://www.greenhouse.io/service\\_level\\_agreement](http://www.greenhouse.io/service_level_agreement) (the "Greenhouse SLA"), and will provide the Services only in accordance with applicable laws and government regulations. Greenhouse will maintain appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of Data.

(b) Licensee Responsibilities. Licensee will (i) be responsible for its (and as applicable, its personnel's) compliance with this Agreement, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Greenhouse immediately of any such unauthorized access and/or use of which Licensee becomes aware, and (iii) use the Services only in accordance with this Agreement and all applicable laws and government regulations. Licensee will not (w) make the Services available to any third party (except for any third parties acting on behalf of Licensee or at Licensee's request, such as recruiting agencies), (x) sell, resell, rent or lease the Services, (y) interfere with or disrupt the integrity or performance of the Services or any third-party data contained on the Services, including, as applicable, the third-party data of Licensee's employees, or (z) attempt to gain unauthorized access to the Services or their related systems or networks.

### 4. FEES

(a) Fees. Licensee will pay Greenhouse the fees described on the Order Forms (the "Fees"). All Fees are due in advance and are based on Services ordered rather than actual usage. Payment obligations are non-cancelable and subject to Section 6(d) and fees paid are non-refundable.



(b) Payment Terms. For all Fees, Licensee will provide Greenhouse with a valid check, money order, or alternative document reasonably acceptable to Greenhouse. Licensee is solely responsible for providing Greenhouse accurate and complete billing and contact information and for notifying Greenhouse of any changes to such information.

(c) Overdue Charges. Late Fee payments will accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

(d) Taxes. Licensee will be responsible for payment of all sales, use, property, value-added, withholding, or other federal, state or local taxes except for taxes based solely on Greenhouse's net income. If Greenhouse is required to pay any such taxes based on the licenses granted in this Agreement or on Licensee's use of the Services, then such taxes will be billed to and paid by Licensee. For the avoidance of doubt, all Fees listed herein are exclusive of New York State Sales Tax.

## 5. CONFIDENTIAL INFORMATION

(a) 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. Licensee's Confidential Information will include Data; Greenhouse Confidential Information will include the Services; and Confidential Information of each Party will include business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information (other than Data) will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

(b) Protection of Confidential Information. The Receiving Party will 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). The Receiving Party agrees (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' 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. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its affiliates and their legal counsel and accountants without the other party's prior written consent.

(c) 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.

## **6. TERM AND TERMINATION**

(a) Term of Agreement. This Agreement takes effect on the date Licensee first signs an Order Form incorporating these terms and will remain in effect until all Order Forms have expired or been terminated.

(b) Term of Subscriptions. The term of each Service subscription will be described in the applicable Order Form. Except as otherwise described in an Order Form, subscriptions for a Service will automatically renew for additional periods equal in length to the expiring subscription term unless either party provides notice of non-renewal at least 30 days prior



to commencement of the next renewal term. If the expiring subscription term is one year or longer, Greenhouse will notify Licensee of a pending auto-renewal at least 60 days prior to commencement of the next renewal term.

(c) Termination. If either Party commits a material breach or default in the performance of any of its obligations under this Agreement, then the other Party may terminate this Agreement, provided that the terminating Party gives the breaching or defaulting Party written notice of termination specifying the underlying breach or default, within 30 days of such breach or default, and such breach or default remains uncured 30 days after the breaching or defaulting Party receives the notice.

(d) Effect of Termination. Upon expiration or termination of this Agreement for any reason, the rights, licenses and access to the Services granted to Licensee under this Agreement will immediately terminate. If this Agreement expires, or if Greenhouse terminates this Agreement pursuant to Section 6(c), all Fees will become immediately due and payable to Greenhouse. If Licensee terminates this Agreement pursuant to Section 6(c), Greenhouse will provide Licensee with a pro-rated refund of any prepaid Fees covering the period from the date of termination through the end of the Term. In no event will expiration or termination of this Agreement relieve Licensee of any obligation to pay Fees payable for the period prior to the date of termination.

(e) Data. Upon expiration or termination of this Agreement for any reason, Greenhouse shall provide an export all Data stored on the Platform (in a reasonably usable digital format) to Licensee, if Licensee requests this within thirty (30) business days of such expiration or termination.

(f) Survival. All terms and provisions of this Agreement, including any exhibits, which by their nature are intended to survive any termination or expiration of this Agreement, will so survive.

## 7. REPRESENTATIONS AND WARRANTIES

Each party represents and warrants to the other party that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering; (b) it has the right, power and authority to enter this Agreement and to grant the rights and licenses granted hereunder and to perform all of its obligations hereunder; (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate or organizational action of the party; (d) when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and (e) it will abide by all applicable federal, state and local laws and regulations with respect to online activities, use of end user data and the products and services offered by each party in connection with this Agreement.

## 8. WARRANTY DISCLAIMER

EXCEPT AS EXPRESSLY SET FORTH IN THE GREENHOUSE SLA, THE SERVICES ARE PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND. AND GREENHOUSE MAKES NO PROMISES, REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SERVICES, INCLUDING THEIR CONDITION, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, OR THE EXISTENCE OF ANY LATENT OR PATENT DEFECTS. GREENHOUSE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER IMPLIED OR STATUTORY WARRANTIES, AS WELL AS ANY LOCAL JURISDICTIONAL ANALOGUES TO THE ABOVE. GREENHOUSE DOES NOT WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL WORK WITHOUT INTERRUPTIONS.



## 9. LIMITATION OF LIABILITY

IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED FEES PAID BY LICENSEE TO GREENHOUSE DURING THE ONE YEAR PERIOD PRECEDING THE CLAIM GIVING RISE TO LIABILITY. EXCEPT FOR A BREACH OF THE LICENSE RESTRICTIONS OR CONFIDENTIALITY OBLIGATIONS, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR LOSS OR INTERRUPTION OF USE OF ANY FILES, DATA OR EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE PARTIES AGREE THAT THE FOREGOING LIMITATIONS REPRESENT A REASONABLE ALLOCATION OF RISK UNDER THIS AGREEMENT.

## 10. INDEMNIFICATION

Each party ("Indemnifying Party") will indemnify, defend and hold the other party ("Indemnified Party") harmless from any claim, action, suit or proceeding made or brought against the Indemnified Party arising out of or related to the Indemnified Party's breach of any term of this Agreement.

## 11. MISCELLANEOUS

(a) Assignment. Neither party may assign this Agreement or any rights or obligations hereunder, directly or indirectly, by operation of law or otherwise, without the prior written consent of the other party; provided, however, that Greenhouse may assign this Agreement to a parent, affiliate, subsidiary, or successor to its business, if any. Subject to the



foregoing, this Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Any attempted assignment in violation of this Section 11(a) will be null and void.

(b) U.S. Government Rights. Greenhouse provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Greenhouse to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

(c) Export Regulations. Licensee agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations (“EAR”) maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department’s Office of Foreign Assets Control, and the International Traffic in Arms Regulations (“ITAR”) maintained by the Department of State. Specifically, Licensee covenants that it will not -- directly or indirectly -- sell, export, re-export, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from Greenhouse under this Agreement to any destination, entity, or person prohibited by the laws or regulations of the United States, without obtaining prior authorization from the competent government authorities as required by those laws and regulations. Licensee agrees to indemnify, to the fullest extent permitted by law, Greenhouse from and against any fines or penalties that may arise as a result of Licensee’s breach of this provision.

(d) Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law the remaining provisions of this Agreement will remain in full force and effect.

(e) Governing Law and Jurisdiction. This Agreement is governed by and construed under the laws of the State of New York without reference to conflict of laws principles. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in New York, New York, and the parties agree and submit to the exclusive jurisdiction and venue of these courts.

(f) Modification and Waiver. No waiver or modification of this Agreement will be valid unless made in writing and signed by both parties. The waiver of a breach of any term hereof will in no way be construed as a waiver of any other term or breach hereof.

(g) Entire Agreement. This Agreement, together with the Order Forms, embodies the entire understanding of the parties and supersedes any previous or contemporaneous communications, whether oral or written; and may be amended only by a writing signed by both parties.