

Channel Partner Agreement

This Reseller Partner Agreement (“Agreement”) is by and between Jotform and each party that has been accepted as a Partner in the Jotform Reseller Partner Program (“Program”) after the party has registered on the Program web page and submitted an application (“Application”) on that page to participate in the Program (“Partner” or “you”, as used herein). This Agreement also binds Jotform. See Section 11N below for more information.

This Agreement becomes effective as of the date that Partner submits its Application. Herein, Jotform and Partner are referred to each as a “Party”, and together as the “Parties”. Partner shall be considered to have been accepted by Jotform as a partner in the Program unless Jotform has rejected the Application.

The purpose of this Agreement is to set forth the Parties’ rights and responsibilities regarding Partner’s participation in the Program. The Parties hereby agree as follows:

1. Resell Rights / Use Rights

A. Subject to the terms and conditions of this Agreement, Jotform grants to Partner and Partner accepts, the non-exclusive right during the term hereof to purchase, promote and resell to third parties subscriptions (“Subscriptions”) for the access and use of the Platform. Third parties to whom or which Partner resells Subscriptions are referred to herein as “Partner Customers”. Partner shall also have the right to access and use the Platform for Partner’s own internal business purposes, provided that Partner has paid Jotform for the Seats (as defined in Section 2A below) that Partner wishes to use for such internal business purposes.

B. In exercising its rights under Section 1A, Partner shall have the option to (i) resell Subscriptions on a standalone basis, or with Subscriptions being part of or along with or incorporated into other products or services offered by Partner to Partner Customers; and (ii) “white label” the Platform, so that it appears to be offered directly by Partner to Partner Customers, with no mention of Jotform. If Partner chooses to white label the Platform, Section 5 hereof shall apply.

C. Partner acknowledges and agrees that its rights under this Agreement are non-exclusive only, that Partner may only resell to Partner Customers, and that Partner may not resell to other resellers or distributors. Jotform reserves the right to appoint other partners, resellers, and distributors, and to continue to make direct and indirect sales of subscriptions to the Platform and of any other Jotform products and services, worldwide, without restriction, to any person or entity, without notice to or liability or responsibility to Partner.

D. Partner shall not modify, alter, or change the Platform or any aspect or component thereof in any way, except as may be allowed under Section 5 hereof.

E. Partner may not at any time resell or use more Seats than Partner has purchased from Jotform, nor shall Partner resell any seats which have previously been re-sold or used by Partner for its internal business purposes.

F. In order to assist Partner in its participation in the Program, Jotform agrees to make the assets, resources and training (collectively “Assets”) available to Partner described on the Program web page. Jotform shall have sole discretion over the nature, content, and amount of the Assets that it makes available to Program partners, including whether to continue or cease offering any and all Assets for such purposes.

2. Orders / Order Acceptance

A. For each Partner Customer from whom Partner has obtained a commitment to purchase a Subscription, Partner shall place an order with Jotform for the number of Seats that the Partner Customer will use. “Seats” means the number of Permitted Users for which the Partner Customer will pay.

B. Initial orders and subsequent orders (each an “Order”) shall be made by Partner using the means and in the form required by Jotform. No Order shall be binding upon Jotform until accepted by Jotform in writing. Jotform reserves the right to reject an Order for any reason whatsoever.

C. Following Jotform's acceptance of an Order:

(i) Jotform will invoice Partner for the number of ordered seats, and for any other fees required by Jotform, such as for SSO integration. Partner agrees to pay all such invoices on a net thirty (30) days basis. Jotform will charge sales tax on Orders only if it is required to do so by law. Partner assumes and accepts responsibility for all other types of taxes levied or assessed on Partner by governmental entities as a result of Partner's participation in the Program; and

(ii) Partner shall enter into a written agreement with the Partner Customer on whose behalf the Order was placed that includes a requirement that the Partner Customer and its permitted users of the Platform each agree to comply with the Platform terms of use (“the Terms of Use”) or, if Jotform has agreed that Partner may white label the Platform, the terms will be on the Partner's site; in such case, the Terms of Use on Partner's site must be identical to the terms of use, except that Partner may delete all references therein to Jotform. The Partner Customer shall not be provided with access to or use of the Platform until Partner has provided Jotform with confirmation or proof that the Partner Customer has agreed to the Terms of Use.

3. Targets / Leads / Discounts / Other

A. Targets. In order to remain in the Program as a Partner, Partner must meet a minimum annual dollar value target for all total Orders made and paid for in the aggregate during each year (“Year”) during the Term (“Target”). The Target applicable to Partner shall be filled in by Jotform on the Deal Registration form. For purposes of this Section 3, “Year” as used herein refers to each twelve (12) month period beginning on the Effective Date hereof during the Term, and does not mean a calendar year. For example, if the Effective Date is on July 1 of a given year, Partner shall have met its Target by the close of business on June 30 in the following year; likewise, the next Year for Target purposes would begin on July 1 of the year at issue and end on June 30 of the year after that.

B. Leads. Partner shall have sixty (60) days to close the deal with the Lead. If Partner has not closed the lead by the end of the 60 days, Jotform shall have the option to give Partner an extension of time of Jotform's choosing, or for Jotform to pursue the lead itself. For all such Leads, Jotform shall in its sole discretion choose whether or not to provide technical or other support or assistance to Partner and/or such party to help Partner close the deal.

Where Partner ultimately closes the deal with the Lead within the 60 days, and Jotform has accepted the Order, Partner shall be entitled to a discount of thirty-percent (30%) off Jotform's normal price charged to the customer (“Discount”).

C. Changes to Discounts. Partner agrees that Jotform may during the Term change the amounts/percentages of Discounts, provided that such changes apply to Partners generally and not just to any specific Partner. Any such changes shall be applicable to all Leads registered by the Partner after the announced effective date of such changes.

D. Other. Jotform shall have the sole discretion to reject any lead presented to Jotform for registration, whether because Jotform has previously been in contact with the party or known of the party as a potential Jotform customer or for any other reason; Jotform shall have no obligations to Partner whatsoever with respect to rejected leads. Jotform may, at its discretion, but without obligation to Partner, choose to share potential Partner Customer leads with Partner. Jotform shall not be required to share any leads with Partner. If Jotform shares a lead with Partner, Partner shall have two (2) business days to advise Jotform in writing that Partner intends to pursue the lead; if Partner fails to so advise Jotform, Jotform shall be free to pursue the lead itself, directly.

E. Promotions. The Parties may choose to jointly engage in activities to promote the Platform, on mutually- agreed terms, but neither Party shall be required to participate in such joint promotions.

4. Other Partner Obligations / Agreements

During the Term hereof, Partner further agrees that:

A. Partner shall provide first-level technical support for Partner Customers. If, after reasonable efforts, Partner is unable to resolve technical issues with the Platform, Partner may direct the party to Jotform Enterprise support via the enterprise support ticketing system for assistance; in such cases, Jotform will use commercially reasonable efforts to help the party resolve the technical issues. Partner assumes and accepts all responsibility for all levels of non-technical support;

B. Jotform owns all right, title, and interest in and to the Service and all intellectual property associated therewith (“Jotform IP”). Partner is not hereby or otherwise obtaining any ownership, right, title, or interest in or to the Jotform IP;

C. Partner's right to resell under this Agreement is conditioned and contingent upon its compliance with the terms of this Agreement, and Jotform shall have and reserves the right to terminate such resell rights if Partner breaches any of the terms hereof;

D. Partner agrees that Jotform shall have no responsibility to any Partner Customers for Partner's acts or omissions in connection with Partner's participation in or actions or omissions concerning the Program, and Partner forever releases Jotform from any and all claims brought against Jotform in connection therewith;

E. Partner agrees that it shall be solely responsible for ensuring that Partner Customers use the Service in compliance with the Terms of Use and with all applicable laws;

F. Partner agrees that it will not include any term in a contract with a Partner Customer, or make any representation to any party, that (i) directly conflicts with any term or provision of this Agreement or the attachment hereto, or (ii) would impose or purport to impose upon Jotform any obligation to a Partner Customer or that would give or purport to give a Partner Customer any right against Jotform; and

G. Partner and its employees, officers, directors, and any other party that accesses and/or uses the Platform or is involved in the exercise of Partner's rights hereunder, shall comply with all applicable federal, state, local and foreign laws and regulations that apply to it given its rights and obligations hereunder. Partner agrees that it shall be solely responsible for all of its employees, agents, and contractors, and for anyone else that Partner permits to use and/or access the Platform and/or who are involved in exercising Partner's rights hereunder. Partner further agrees that Partner and all of Partner's internal users of the Platform shall at all times comply with the Terms of Use.

H. Partner shall not offer the Platform or resell rights to use or access the Platform to any person or entity who is the subject of any law or government restriction or order concerning trade sanctions, sanctioned countries or individuals, embargoed countries, and the like.

5. White Labeling

If Jotform has agreed that Partner may white label the Platform:

i) The Order form shall identify Partner as intending to white label the Platform; and

ii) Partner shall have the right to remove all references to Jotform in the Platform and in any associated websites and documentation provided by Partner in connection with the Platform, such that the Platform shall appear to third parties to be offered and operated by Partner rather than Jotform. In so doing, Partner shall not modify the Platform's source code or other code, nor shall Partner make any changes to or modify any features or functionality of the Platform or otherwise do anything that will affect the normal functioning of the Platform as operated by Jotform. Partner accepts and assumes all responsibility for any and all things it may do in connection with its white labeling of the Platform.

iii) Partner forever fully releases Jotform from all responsibility therewith, and Partner agrees that Partner shall be solely liable to third parties for any issues such parties have in connection therewith and for any legal claims such parties may make in connection therewith. Partner further agrees that Jotform shall not have any obligation to assist Partner in white labeling the Platform or to pay or reimburse Partner for the same.

6. Term and Termination

A. The term of this Agreement ("Initial Term") shall be from the date on which Jotform accepts Partner as a Program partner, and shall continue until the earlier of the following events: Partner withdraws from the Program or Jotform removes Partner as a Program participant, or this Agreement is terminated.

B. Either party may terminate this Agreement on fifteen (15) days' notice if the other party has materially breached this Agreement and, if such breach can reasonably be said to be curable, has failed to cure such breach within thirty (30) days of being provided with written notice of the breach.

C. Jotform may terminate this Agreement on fifteen (15) days notice if, in Jotform's sole opinion and discretion, Partner has: materially failed to meet its Target, or has acted in a manner that reflects poorly on Jotform or the Platform, or if Partner has liquidated, ceased operations, terminated, declared insolvency, or petitioned for bankruptcy.

D. In the event of a termination, Partner shall (i) immediately cease exercising all of its resell rights, (ii) provide full cooperation to Jotform and Partner Customers to transition all Partner Customers to, at Jotform's sole option, a direct relationship with Jotform or with another partner or reseller of Jotform's choice, and (iii) within fifteen (15) days, pay to Jotform all monies owed on all outstanding Orders. All of Partner's rights under this Agreement shall immediately terminate as of the effective date of a termination.

7. Intellectual Property Rights and Confidential Information

A. During the Term hereof, Jotform grants to Partner a non-exclusive, non-transferrable, limited right to use the Jotform name and pencil logo for the sole purpose of promoting the Program. In so doing, Partner shall not alter, modify, or add to the Jotform name and pencil logo. Partner shall not state or imply any endorsement by Jotform of any Partner product or service.

B. Jotform retains all right, title, and interest in and to its patent rights, trade secret rights, domain name rights, copyrights and trademark rights in and to the Platform and all other Jotform products, services, and properties (collectively, the "Jotform IP"), and no title or interest in or to the Jotform IP is hereby being granted, given or conveyed to Partner. Additionally, no rights to use or resell the Platform being granted, given, or conveyed to Partner except as explicitly set forth in this Agreement.

8. Confidentiality

Partner acknowledges that Partner has been given access to Jotform's confidential and proprietary information. Partner agrees that during the Term hereof and for three (3) years after the termination hereof to never disclose such information to any third party without Jotform's advance written consent.

9. Warranty

With respect to Partner's use of the Platform as authorized herein, Jotform warrants to Partner (only) that the Platform will function materially in accordance with its written user guides and specifications posted at www.jotform.com/help or which have otherwise been provided to Customer in writing. The Platform is otherwise provided on an as-is basis. Jotform makes no warranties whatsoever to Partner Customers or to any other third parties. Jotform disclaims all implied representations and warranties concerning the Platform, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, and non-infringement of third-party rights, to the maximum extent permitted by applicable law.

10. Limitation of Liability

A. Except for the Parties' intentionally wrongful conduct, and breaches of Partner's confidentiality obligations herein, in no event shall either party's liability arising out of or related to this agreement, under any theory of liability, exceed in the aggregate the amount of the fees paid by Partner during the Term for Orders.

B. Except if and to the extent prohibited by law, in no event shall either party be liable under any theory of liability for any lost profits or lost business or revenue or for any indirect, special, punitive, incidental, consequential, or breach of warranty damages arising under this agreement, even if the party has been advised of the possibility of such damages occurring.

11. Other Provisions

A. You agree not to reproduce, duplicate, copy, or reverse engineer the Platform. Jotform reserves the right to modify any and all aspects of the Platform at any time, including to add or remove specific features and functionality, and to stop offering and selling the Platform altogether, for any reason.

B. Jotform does not endorse or bear responsibility for any third-party product or service you may use, offer, or sell or resell in connection with or as part of your use of the Platform.

C. You hereby authorize Jotform to access Submission Data as necessary to provide you with technical and customer support in connection with your use of the Platform.

D. Jotform will not be responsible for any issues or problems with your forms or your use of the Platform caused by mistakes you make or errors you introduce in building, creating, or using your forms.

E. Assignment. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party (not to be unreasonably withheld). In any permitted assignment, the assigning party shall ensure that the assignee agrees in writing to the terms of this Agreement.

F. No Third-Party Beneficiaries. There are no third-party beneficiaries to or of this Agreement.

G. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of California, excluding its conflicts of law provisions. If the issue is federal in nature, this Agreement shall be governed by the laws of the United States.

H. Disputes; Arbitration. The parties agree that all disputes between them shall be finally resolved by binding arbitration before a single neutral arbitrator in San Francisco, CA, under the auspices of JAMS. The prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs associated with the arbitration. An arbitration award shall be enforceable in a court of competent jurisdiction. No arbitrator shall have the authority to issue any form of injunctive relief. No claim shall be initiated or filed against the other party more than one year after the cause of action arises. The parties hereby voluntarily waive a trial by jury of all claims.

I. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform hereunder (excluding payment obligations which may be delayed but not excused) due to acts of government, pandemic, flood, fire, earthquakes, extreme weather phenomena, civil unrest, acts of terror, labor strikes, platform availability disruptions involving hardware, software or power systems not within such party's reasonable control, or third party attacks on a Party's systems or websites.

J. Entire Agreement / Changes. This Agreement represents the entire agreement of the parties concerning the subject matter thereof and is intended to be the final expression of the parties' agreement and intent. This Agreement supersedes all prior and contemporaneous agreements, proposals, and representations, whether written or oral, including but not limited to any Program web pages or materials. Partner agrees that this Agreement may from time to time be updated or modified by Jotform, and that Partner shall be bound to such updated or modified version of this Agreement if Partner is notified of such changes and Partner does not thereafter withdraw from the Program or terminate this Agreement within thirty (30) days of being so notified.

K. Each party warrants to the other party that it has the legal power and authority to enter into this Agreement and that the person signing for that party has the authority to bind that party to the terms of this Agreement. Partner is an independent contractor and is not an employee, agent, or representative of Jotform. Reseller may identify itself to third parties as an authorized reseller of the Platform.

L. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision may be modified by the court, and shall be interpreted so as best to accomplish the objectives of the original provision, and the remaining provisions shall remain in effect. This Agreement shall not be construed against either party as the drafter. This Agreement may be executed in counterparts. Sections 1C-E, 2C, 4B-H, and 6-11 hereof, shall survive the termination of this Agreement.

M. If you are located in the United States or American Samoa, Guam, Northern Mariana Islands, Puerto Rico, or the US Virgin Islands, this Agreement is between you and Jotform Inc., located at 4 Embarcadero Center, Suite 780, San Francisco, CA 94111, USA, and the laws of California, United States, apply to you. If you are located in any of the following countries or territories, (i) this Agreement is between you and Jotform Pty Ltd (Australia), located at Suite 3, 26 McDonald Street, Mortlake, NSW 2137: Afghanistan, Australia, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Hong Kong, China, Macao, China, Cook Islands, Fiji, India, Indonesia, Japan, Kiribati, Lao People's Democratic Republic, Malaysia, Maldives, Marshall Islands, Micronesia (Federated States of), Mongolia, Myanmar, Nauru, Nepal, New Zealand, Pakistan, Palau, Papua New Guinea, Philippines, Republic of Korea, Samoa, Singapore, Solomon Islands, Sri Lanka, Thailand, Timor Leste, Tonga, Tuvalu, Vanuatu, Vietnam, Johnston Island, Kingman Reef, Midway, Palmyra, Wake Island; and (ii) the laws of Australia apply to you. If you are located in any of the following countries or territories, (i) this Agreement is between you and Jotform Canada Inc., located at 411-150 22nd St. W North, Vancouver BC V7M 3M4 Canada: Antigua and Barbuda, Argentina, Aruba, Bahamas, Barbados, Belize, Bermuda, Bolivia, Bonaire, Sint Eustatius and Saba, Brazil, British Virgin Islands, Canada, Cayman Islands, Chile, Christmas Island, Cocos (Keeling) Islands, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Falkland Islands (Malvinas), French Guiana, Greenland, Grenada, Guadeloupe, Guatemala, Guyana, Haiti, Honduras, Jamaica, Martinique, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Martin, Saint Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Tokelau; and (ii) the laws of Canada, and of the province in which you reside, apply to you. If you are located in any country or territory not listed above, this Agreement is between you and Jotform Ltd, located at 3 Albert Mews, Albert Road, London, N4 3RD, UK, company number 12668839, and the laws of the United Kingdom and Wales apply to you.

In these terms, references to "Jotform", "we", "us", and "our" are references to the applicable Jotform contracting entity, as set forth above.