

# INTROHIVE SERVICES, INC.

## TERMS OF USE

These Terms of Use, together with the IntroHive order form referencing these Terms of Use (such form, the "Order Form," and the Order Form and these Terms of Use together, the "Agreement") is entered into by and between IntroHive Services, Inc. and the entity identified under "Company Name" or "Customer" on the Order Form ("Customer"), and, when the Order Form has been signed by authorized representatives of both IntroHive and Customer, is effective as of the Contract Start Date specified on the Order Form (the "Effective Date").

### 1. DEFINITIONS.

**1.1** "Console" means the IntroHive Platform's web-based configuration and reporting tool which may be used by IntroHive's customers to manage usage of the IntroHive Platform by their employees, contractors, officers and/or directors and to view reports regarding such usage, in each case in the manner and to the extent enabled by IntroHive.

**1.2** "Contact" means a database or phone book entry consisting of at least the name of a natural person, and which may also include the employer, job title, address, phone number and other information relating to such person.

**1.3** "Customer Personnel" means, individually and collectively, Customer's employees, contractors, officers and directors.

**1.4** "Intellectual Property Rights" means all forms of proprietary rights, titles, interests, and ownership relating to patents, copyrights, trademarks, trade dresses, trade secrets, know-how, mask works, droit moral (moral rights), and all similar rights of every type that may exist now or in the future in any jurisdiction, including without limitation all applications and registrations therefore and rights to apply for any of the foregoing.

**1.5** "IntroHive Platform" means the software-as-a-service hosted and made available by IntroHive in connection with which IntroHive's customers' personnel may upload their Contacts and search and request introductions to Contacts uploaded by their coworkers, in each case in the manner and to the extent enabled by IntroHive.

**1.6** "IntroHive Software" means any software applications made available by IntroHive, including mobile device applications made available through the Apple App Store or Google Play, for use by Customer Personnel for purposes of providing their Contacts to the IntroHive Platform, searching the Contacts provided by other Customer Personnel to the IntroHive Platform and requesting introductions to such Contacts from other Customer Personnel.

**1.7** "Term" has the meaning set forth in Section 5 below.

### 2. USE OF INTROHIVE PLATFORM.

**2.1** Access. Subject to all terms and conditions of this Agreement, including Customer's compliance with all payment obligations, IntroHive shall activate an IntroHive Platform account for Customer during the Term for purposes of: (i) allowing Customer Personnel to access and use the IntroHive Platform through use of the IntroHive Software in relation to such account; and (ii) allowing Customer to access and use the Console. IntroHive reserves the right to modify and update the features and functionality of the IntroHive Platform and IntroHive Software from time to time. Customer shall be responsible for the acts of any person accessing the Console using a user name and password issued to Customer by IntroHive.

For the avoidance of doubt, the IntroHive Software must be downloaded through the distribution channels made available by IntroHive and is subject to all accompanying agreements and policies, and nothing in this Agreement grants to Customer any rights or licenses with respect to the IntroHive Software.

**2.2 Restrictions.** Customer acknowledges that use of the IntroHive Platform is provided for Customer's benefit only. Customer agrees not to, not to attempt to or allow any third party to: (i) copy, distribute, rent, lease, lend, sublicense, transfer or make the IntroHive Platform available to any third party or use the IntroHive Platform on a service bureau basis, (ii) decompile, reverse engineer, or disassemble the IntroHive Platform, (iii) create derivative works based on the IntroHive Platform; or (iv) modify, remove, or obscure any copyright, trademark, patent or other notices or legends that appear on the IntroHive Platform or during the use and operation thereof. Customer shall not enable, encourage or permit any individuals other than the Customer Personnel to use the IntroHive Software in connection with Customer's IntroHive Platform account.

**2.3 Suspension/Termination.** IntroHive may suspend or terminate Customer's access to or use of the IntroHive Platform and/or suspend or terminate the use of the IntroHive Software by some or all Customer Personnel if: (i) in the sole discretion of IntroHive, such action is necessary to prevent errors or harm to any system or network, or to limit IntroHive's liability; or (ii) Customer or any Customer Personnel attempt to access or use the IntroHive Platform in an unauthorized manner, including without limitation any attempt to gain access to the accounts or Contacts relating to other IntroHive customers.

**2.4 Customer Personnel.** Customer acknowledges that Customer Personnel must download and use the IntroHive Software in order to be able to upload Contacts to the IntroHive Platform and search for and request introductions to Contacts uploaded by other Customer Personnel. IntroHive shall have no responsibility or liability for the decision not to download or use, or the inability to download or use, the IntroHive Software by any Customer Personnel. Use of the IntroHive Software by Customer Personnel is contingent upon their compliance with any end user license agreement that may be provided in connection with the IntroHive Software, and IntroHive shall have no liability to Customer for terminating any Customer Personnel's use of the IntroHive Software as permitted under such an end user license agreement or this Agreement. Customer shall indemnify and hold IntroHive harmless from and against any damage, liability, loss, judgment, action, suit, proceeding, cost or expense (including reasonable attorneys' fees) arising out of relating to any actual or alleged: (i) infringement, misappropriation or violation of IntroHive's Intellectual Property Rights by Customer Personnel; or (ii) any willful misconduct, negligence or violation of any law, rule or regulation by Customer Personnel, in each case in connection with their use of the IntroHive Software or IntroHive Platform.

**2.5 Support.** Provided that Customer timely makes all payments due under this Agreement, IntroHive shall use commercially reasonable efforts to provide technical support regarding the IntroHive Platform to Customer via e-mail during IntroHive's business hours.

**2.6 Training.** To the extent the Order Form specifies any training is to be provided to Customer, IntroHive will provide such training, contingent on timely payment by Customer of any applicable Fees, over WebEx or similar web conferencing system at a mutually agreeable time.

**2.7 Data.** Customer agrees that IntroHive may use and disclose any data collected in connection with the IntroHive Platform and Customer's use thereof as follows: (i) IntroHive may use such data for purposes of providing Customer with use of the IntroHive Platform; (ii) IntroHive may disclose such data as may be required by law or legal process; and (iii) IntroHive may disclose such data where it is aggregated with data relating to IntroHive's other customers and is not identified as relating to Customer. IntroHive shall not intentionally disclose or publish any personally identifiable Contact information except as may be required by law or legal process or as may be authorized by Customer. The storage or transmission to or by third party data center, data processing, telecommunications and other similar service providers of any Contact information or other data in connection with the operation of the IntroHive Platform shall not constitute a disclosure or publication of such Contact information or other data hereunder.

**2.8 Security.** Customer acknowledges that communications between the IntroHive Software and IntroHive Platform are over the public Internet, and the IntroHive Platform and all Contact and other data stored in connection therewith is stored on Internet-connected servers. Customer further acknowledges and agrees that no security measure is 100% effective, and that such communications and data may be intercepted or acquired by hackers and other malicious third parties. IntroHive shall not be liable for the activities of such hackers and other

malicious third parties.

### **3. PAYMENT**

**3.1 Fees.** Customer shall pay IntroHive the fees as set forth in Order Form (the "Fees"). Any per-user Fees shall be based on the number of Customer Personnel authorized to use the IntroHive Platform on the last day of the applicable month, as measured by IntroHive.

**3.2 Payment Terms.** Except for any Fees indicated on the Order Form as being payable on the Effective Date, Contract Start Date or some other date (which Fees are due and payable on the applicable date), IntroHive shall invoice Customer following the end of each calendar month, with each such invoice covering Fees incurred during such month. Customer agrees to pay each invoice within thirty (30) days of receipt. All payments will be made in Canadian dollars. Any amounts due IntroHive under this Agreement not received by the date due will be subject to a late fee of 1.5% per month, or the maximum charge permitted by law, whichever is less. Customer shall pay the amounts due under each invoice without deducting any taxes that may be applicable to such payments. Customer is responsible for paying any and all withholding, sales, value added or other taxes, duties or charges applicable to this Agreement, other than taxes based on IntroHive's income.

**4. OWNERSHIP.** As between the parties, IntroHive owns all right, title and interest (including all Intellectual Property Rights) in and to the IntroHive Platform, IntroHive Software and any software, technology, materials and information owned by IntroHive prior to the Effective Date or created, authored, developed, conceived or reduced to practice after the Effective Date. Nothing herein shall be construed to transfer any rights, title or ownership of any IntroHive software, technology, materials, information or Intellectual Property Rights to Customer. Customer is not required to provide any feedback or suggestions regarding IntroHive's products and services to IntroHive. To the extent Customer does provide any such feedback or suggestions, Customer agrees to assign and hereby does assign all right, title and interest in and to such feedback or suggestions to IntroHive and acknowledges that IntroHive may freely use and exploit such feedback and suggestions without payment of any compensation to Customer.

### **5. TERM; TERMINATION**

**5.1 Term.** This Agreement shall be effective as of the Effective Date, and shall continue in full force and effect until the end of the order term specified in the Order Form (the "Initial Term"). At the end of the Initial Term, this Agreement shall automatically renew if and to the extent such automatic renewal is specified in the Order Form (such renewal periods and the Initial Term, collectively the "Term").

#### **5.2 Termination.**

(a) Either party may terminate this Agreement effective immediately if the other party is in material breach of any obligation, representation or warranty hereunder and fails to cure such material breach (if capable of cure) within thirty (30) days (or ten (10) days in the event of breach of payment obligations) after receiving written notice of the breach from the non-breaching party.

(b) Either party may terminate immediately upon written notice at any time if: (i) the other party files a petition for bankruptcy or is adjudicated as bankrupt; (ii) a petition in bankruptcy is filed against the other party and such petition is not removed or resolved within sixty (60) calendar days; (iii) the other party makes an assignment for the benefit of its creditors or an arrangement for its creditors pursuant to bankruptcy law; (iv) the other party discontinues its business; (v) a receiver is appointed over all or substantially all of the other party's assets or business; or (vi) the other party is dissolved or liquidated.

#### **5.3 Effect of Termination.**

All rights and obligations of the parties hereunder shall terminate upon expiration or termination of this Agreement, provided that Sections 1, 2.2, 2.4, 2.7, 2.8, 3, 4, 5.3, 6.2, 6.3 and 7 through 10 shall survive expiration or termination of this Agreement.

## **6. REPRESENTATIONS AND WARRANTIES; INDEMNITY**

**6.1 Representations and Warranties.** Each party represents, warrants and covenants to the other party that: (i) it has the full power and authority to enter into this Agreement; (ii) the execution of this Agreement and performance of its obligations under this Agreement does not violate any other agreement to which it is a party; and (iii) this Agreement constitutes a legal, valid and binding obligation when executed and delivered. Customer represents, warrants and covenants to IntroHive that it shall not use the IntroHive Platform in any manner or in relation to any activity that would violate any law, rule or regulation.

**6.2 Indemnity.** Customer agrees to indemnify, defend, and hold IntroHive and its affiliates, and their directors, officers and employees harmless from and against any liabilities, damages, costs or expenses (including reasonable attorneys' fees) arising out of or relating to any claim, demand, action, or proceeding initiated by a third party to the extent attributable to the alleged or actual breach by Customer of any covenant, representation or warranty of this Agreement, provided that IntroHive: (i) promptly notifies Customer in writing of the claim, except that any failure to provide this notice promptly only relieves Customer of its responsibility pursuant to this Section 6.2 to the extent its defense is materially prejudiced by the delay; (ii) grants Customer sole control of the defense and/or settlement of the claim, provided that Customer may not agree to any settlement that admits fault by IntroHive or purports to bind IntroHive without IntroHive's prior written consent; and (iii) provides Customer, at Customer's expense, with all assistance, information and authority reasonably required for the defense and/or settlement of the claim.

**6.3 IP Claims.** IntroHive agrees to, at its option, defend and/or settle any claim made by a third party alleging that the IntroHive technology underlying the IntroHive Platform infringes such third party's United States patent issued as of the Effective Date, copyright, trademark or trade secret (a "Claim"), provided that Customer provides IntroHive with (i) prompt written notice of the Claim, except that any failure to provide this notice promptly only relieves IntroHive of its responsibility pursuant to this Section 6.3 to the extent its defense is materially prejudiced by the delay, (ii) sole control over the defense and settlement of the Claim; and (iii) all assistance, information and authority reasonably required for the defense and/or settlement of the Claim. If a Claim is sustained in a final judgment from which no further appeal is taken or possible, then IntroHive will pay or otherwise satisfy any monetary award entered against Customer as part of such final judgment to the extent that such award is adjudged in such final judgment to arise from such infringement, provided that IntroHive's obligation to pay such award shall not exceed three times (3X) the total fees paid by Customer to IntroHive under this Agreement during the time period preceding the date the Claim is made. If IntroHive, in its sole discretion, believes a Claim or an adverse judgment in connection with a Claim is likely, then IntroHive may, at its option, (a) obtain a license from such third party claimant that allows Customer to continue the use of the IntroHive Platform, (b) modify the IntroHive Platform so as to be non-infringing, or (c) if neither (a) nor (b) is available to IntroHive at a commercially reasonable terms, terminate this Agreement upon written notice to Customer. This Section 6.3 sets forth the entire liability of IntroHive and the sole and exclusive remedy of Customer in the event of any claim that the IntroHive Platform infringes any third party Intellectual Property Right.

**7. DISCLAIMER.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND EACH PARTY EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, NONINTERFERENCE WITH ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR PERFORMANCE. INTROHIVE AND ITS SUPPLIERS, LICENSORS, AND PARTNERS DO NOT WARRANT THAT THE FUNCTIONALITY PROVIDED BY THE INTROHIVE PLATFORM OR INTROHIVE SOFTWARE WILL BE CORRECT, CONSISTENTLY AVAILABLE, UNINTERRUPTED OR ERROR-FREE OR THAT DEFECTS WILL BE CORRECTED. INTROHIVE DOES NOT WARRANT THE RESULTS OF USE OF THE INTROHIVE PLATFORM OR INTROHIVE SOFTWARE, OR WARRANT THAT THE INTROHIVE PLATFORM OR INTROHIVE SOFTWARE WILL MEET CUSTOMER'S NEEDS. THE INTROHIVE SOFTWARE AND INTROHIVE PLATFORM ARE PROVIDED "AS-IS" AND WITH ALL FAULTS, AND THE ENTIRE RISK AS TO THE SATISFACTORY ACCURACY, QUALITY AND

PERFORMANCE THEREOF IS WITH CUSTOMER. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE INTERNET IS A PUBLIC NETWORK OVER WHICH INTROHIVE EXERTS NO CONTROL. INTROHIVE MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, AND SHALL HAVE NO LIABILITY WHATSOEVER, WITH RESPECT TO THE DEPENDABILITY, PRIVACY, SECURITY, AUTHENTICITY OR COMPLETENESS OF DATA TRANSMITTED OVER THE INTERNET, OR ANY INTRUSION, VIRUS, DISRUPTION, LOSS OR CORRUPTION OF DATA, OR OTHER ERROR OR EVENT CAUSED OR PERMITTED BY OR INTRODUCED THROUGH THE USE OF THE INTERNET, INCLUDING THE TRANSMISSION OF CONTACTS THROUGH THE USE OF INTERNET-CONNECTED MOBILE DEVICES.

**8. CONFIDENTIALITY.** Each party shall keep confidential all information and materials provided by the other party that is marked as confidential or proprietary ("Confidential Information"). The non-public features and functionality of the IntroHive Platform, as well as any information regarding planned modifications or updates thereto or future IntroHive products and services constitutes Confidential Information of IntroHive. Each party shall keep and instruct its employees and agents to keep Confidential Information confidential by using at least the same care and discretion as used with that party's own confidential information, but in no case less than a prudent and reasonable standard of care. Neither party shall use Confidential Information other than for purposes of performing its obligations hereunder or as authorized by the disclosing party. Information or materials shall not constitute Confidential Information if it is: (i) in the public domain through no fault of the receiving party, (ii) known to the receiving party prior to the time of disclosure by the disclosing party, (iii) lawfully and rightfully disclosed to the receiving party by a third party on a non-confidential basis, (iv) developed by the receiving party without reference to Confidential Information or (v) required to be disclosed by law or legal process, provided that the receiving party promptly provide notice to the disclosing party of such request or requirement so the disclosing party may seek appropriate protective orders. If any party, its employees or agents breaches or threatens to breach the obligations of this Section 8, the affected party may seek injunctive relief from a court of competent jurisdiction, in addition to its other remedies, as the inadequacy of monetary damages and irreparable harm are acknowledged.

**9. LIMITATION OF LIABILITY.** EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS HEREUNDER OR A BREACH OF SECTION 8, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY HEREUNDER FOR ANY PUNITIVE, INCIDENTAL, INDIRECT, SPECIAL, RELIANCE OR CONSEQUENTIAL DAMAGES, INCLUDING LOST BUSINESS, REVENUE, OR PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AND WHETHER OR NOT THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS HEREUNDER OR A BREACH OF SECTION 8, IN NO EVENT WILL EITHER PARTY'S LIABILITY AND DAMAGES UNDER THIS AGREEMENT EXCEED THE SUM OF THE TOTAL FEES PAYABLE TO INTROHIVE UNDER THIS AGREEMENT DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. THE PARTIES AGREE THAT THE LIMITATIONS AND DISCLAIMERS OF LIABILITY SET FORTH IN THIS SECTION 9 WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

**10. MISCELLANEOUS.** The parties are independent contractors with respect to each other. This Agreement does not constitute and shall not be construed as constituting a partnership or joint venture among the parties hereto, or an employee-employer relationship. No party shall have any right to obligate or bind any other party in any manner whatsoever, and nothing herein contained shall give, or is intended to give, any rights of any kind to any third parties. Customer may not assign any of its rights or obligations under this Agreement, whether by merger, operation of law, change of control or otherwise, without the prior written consent of IntroHive. IntroHive may assign this Agreement to any successor to its business, including by way of merger, acquisition of substantially all of IntroHive's capital stock or acquisition of substantially all of IntroHive's assets relating to this Agreement. This Agreement inures to the benefit of and shall be binding on the parties' permitted assignees, transferees and successors. Except for payment obligations, neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, internet or telecommunications failures, shortages of or inability to

obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action, acts by hackers or other malicious third parties and problems with the Internet generally, and such performance shall be excused to the extent that it is prevented or delayed by reason of any of the foregoing. All notices under the terms of this Agreement shall be given in writing and sent by internationally recognized overnight carrier with delivery confirmation or shall be delivered by hand to the respective addresses of the parties set forth in the Order Form to the attention of "Legal Department." All notices shall be presumed to have been received when they are hand delivered, or on the business day following the day of delivery by overnight carrier. An amendment of this Agreement shall be binding upon the parties only if it is in a writing referencing this Agreement that is executed by both parties. No regular practice or method of dealing between the parties shall modify, interpret, supplement or alter in any manner the express terms of this Agreement. This Agreement shall be fairly interpreted and construed in accordance with its terms and without strict interpretation or construction in favor of or against either party. Each party has had the opportunity to consult with counsel regarding this Agreement. Section headings are for reference purposes only, and should not be used in the interpretation hereof. If any provision, or portion thereof, of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such determination will not impair or affect the validity, legality, or enforceability of the remaining provisions of this Agreement, and each provision, or portion thereof, is hereby declared to be separate, severable, and distinct. A waiver of any provision of this Agreement will only be valid if provided in writing and will only be applicable to the specific incident and occurrence so waived. The failure by either party to insist upon the strict performance of this Agreement, or to exercise any term hereof, will not act as a waiver of any right, promise or term, which will continue in full force and effect. This Agreement may be signed in counterparts. Each of them is an original, and all of them constitute one agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the province of Ontario, without reference to conflicts of laws principles. The parties agree that the federal and state courts in the province of Ontario will have exclusive jurisdiction and venue under this Agreement, and the parties hereby agree to submit to such jurisdiction exclusively. This Agreement constitutes the complete, final and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous oral or written representations, understandings, agreements or communications between them concerning the subject matter hereof. Neither party is relying upon any warranties, representations, assurances or inducements not expressly set forth herein.