

LinkedIn Corporate Subscription Agreement

This **LinkedIn Corporate Subscription Agreement (“Agreement”)**, between Customer, as identified below, and the LinkedIn entity identified below (“LinkedIn”), is effective as of the “Effective Date” specified in the Order Form, and governs Customer’s purchase and ongoing use of the Premium Services specified in the Order Form.

1. Definitions. Capitalized terms shall have the meaning set forth below or as defined elsewhere in this Agreement.

1.1 Intellectual Property Rights means any and all rights, title and interest existing from time to time under patent, copyright, moral rights, trade secret, or trademark law, any and all other proprietary rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

1.2 LinkedIn Member means an individual who has agreed to the terms of the User Agreement for use of LinkedIn’s website.

1.3 Order Form means the ordering documents for purchase hereunder, including addenda thereto, that are entered into between Customer and LinkedIn from time to time. Order Forms shall be deemed incorporated herein by reference.

1.4 Party means either Customer or LinkedIn, and **Parties** means both Customer and LinkedIn.

1.5 Premium Services means the services LinkedIn provides to Customer as specified in Order Forms.

1.6 User Agreement means the LinkedIn terms and conditions posted on LinkedIn’s website as may be amended from time to time.

1.7 Customer’s User means an individual who (a) is Customer’s employee or contractor; (b) Customer authorizes in writing (via the Order Form or otherwise) to use the Premium Services provided under this Agreement; and (c) is a LinkedIn Member.

2. Access to the Premium Services.

2.1 User Agreement. During the term of any applicable Order Form, Customer agrees to be bound by the User Agreement located at: http://www.linkedin.com/static?key=user_agreement&trk=hb_ft_userag. LinkedIn reserves the right to modify the User Agreement at any time for any reason. Notice of any change will be made available via the LinkedIn website. If the Parties agree that such modifications materially degrade the ability of the Customer to use the Premium Services, Customer may terminate the applicable Order Form within thirty (30) days after such change and receive a refund of any unused Fee for Premium Services. The User Agreement is hereby incorporated by reference.

2.2 Access to Premium Services. Subject to payment of Fees, as defined in section 3 below, Customer may access the Premium Services pursuant to the terms of this Agreement and the applicable Order Form.

3. Fees and Payments.

Customer will provide LinkedIn with a valid purchase order or alternative document reasonably acceptable to LinkedIn. LinkedIn will invoice Customer in advance and otherwise in accordance with the relevant Order Form. Customer is responsible for maintaining complete and accurate billing and contact information.

Customer agrees to pay all fees for the Premium Services included in the applicable Order Form (“**Service Fees**”), even if Users do not activate or use the Premium Services. Unless otherwise indicated in the Order Form, all payments will be made net 30 from the date of invoice and sent to the address noted in the Order Form. All payments will be made in United States dollars (unless otherwise provided in the Order Form) and will be subject to all applicable governmental regulations and rulings, including the withholding of any taxes required by law. Customer agrees to pay all of Customer’s bank charges, taxes, duties, levies and other costs and commissions associated with its bank wire transfer or other means of payment. Service Fees will be exclusive of taxes or similar fees now in force or enacted or imposed in the future, all of which Customer will be responsible for and will pay for directly or reimburse LinkedIn, in full, including but not limited to, sales, usage, excise, ad-valorem, property or any other taxes, surcharges or fees (“**Other Fees**”). Service Fees and Other Fees will collectively be referred to as “**Fees**.”

4. Customer’s Responsibilities.

4.1 Use of Premium Services. Customer may access and use the Premium Services specified on the Order Form solely for the purpose of recruiting Customer’s employees and consultants and not for any other purpose. Customer will not allow the Premium Services to be used as a service bureau for third parties (i.e. Customer will not provide or sell access to the Premium Services to third parties). Customer will not use the Premium Services to spam or otherwise harass or bother LinkedIn Members. Customer will utilize the Premium Services only for lawful purposes and comply with all laws, orders, codes and regulations, including all privacy laws, in Customer’s use of the Premium Services.

4.2 Recruiting Entities. A “Recruiting Entity” is one that provides, in any manner whatsoever, recruiting, outsourced HR (RPO), or staffing services to third parties. Customers that are Recruiting Entities may only purchase certain Premium Services, such as Recruiter – Professional Services. Recruiting Entities may not purchase Recruiter – Corporate Premium Services, and Recruiting Entity Customers warrant that they will not access any restricted Premium Services. LinkedIn reserves the right to limit the Premium Services LinkedIn makes available to any Recruiting Entity.

4.3 Customer’s Usage Obligations. Customer (a) will promptly provide to and maintain with LinkedIn accurate contact information for Customer’s Users so that LinkedIn can grant Customer’s Users personal access to the Premium Services; (b) will designate in writing one Customer User for each account that Customer purchases, as set forth in an Order Form, and who must be a named individual (e.g. not a shared alias), whose access may not be shared by any other individual, except as set forth herein; (c) will not, and will not permit Customer’s Users to, allow anyone other than Customer’s Users to access the Premium Services; (d) will not permit each Customer User to access the Premium Services from more than two (2) IP addresses (e.g. two (2) different computers). If Customer purchases access to LinkedIn for Salesforce, on a monthly basis during the term set forth in the Order Form, Customer may reassign up to two times the total

number of accounts purchased. For example, if Customer purchases ten accounts, Customer may reassign the accounts twenty times in the aggregate.

4.4 Storage of LinkedIn Member Data. LinkedIn Member data is constantly being updated. Information about LinkedIn Members available in the Premium Services, may be stored in the Premium Services, but should not be stored off-line by Customer, without the express consent of the LinkedIn Member (e.g. applying to a job posting), as such storage may be outdated and may violate privacy laws in certain jurisdictions. Information about LinkedIn Members may only be used for recruiting and should be considered sensitive and personal data that may not be used for any other purposes.

4.5 Monitoring; Audit. Customer acknowledges LinkedIn's right to monitor and enforce compliance with the terms of this Agreement by (i) crawling or monitoring Customer's usage of the Premium Services; and/or (ii) reviewing Customer's books and records at Customer's offices relating to the use of the Premium Services during regular business hours only, at LinkedIn's expense and following not less than ten (10) days notice of such audit.

5. Confidential Information.

If either Party ("**Receiving Party**") gains access to confidential information of the other Party ("**Disclosing Party**") concerning the Disclosing Party's prices, business, plans, technology, products, and other non-public information of the Disclosing Party (collectively, "**CI**"), then the terms of this section will apply. CI includes all information in tangible or intangible form that is marked or designated as confidential by the Disclosing Party or that, under the circumstances of its disclosure, should be considered confidential. The Disclosing Party owns all right, title and interest, including all Intellectual Property Rights in the Disclosing Party's CI. Each Party agrees that it will not use in any way, for its own benefit or the benefit of any third party, except as expressly permitted by, or as required to implement, this Agreement, nor disclose to any third party (except as required by law or to such Party's attorneys, accountants and other advisors as reasonably necessary), any of the Disclosing Party's CI. Each Party will take reasonable precautions to protect the confidentiality of the other Party's CI that are at least as stringent as it takes to protect its own CI.

Information will not be deemed CI under this Agreement if (a) it was in the public domain or was known to the Receiving Party prior to its receipt from the Disclosing Party from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) it has become publicly known, except through a breach of this Agreement by the Receiving Party; (c) it was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was communicated by Disclosing Party; (d) it has been entirely independently developed by the Receiving Party without use of or reference to the Disclosing Party's CI; (e) it was communicated by the Disclosing Party to an unaffiliated third party free of any obligation of confidence; or (f) it is information provided by any LinkedIn Member to LinkedIn while utilizing LinkedIn's services (i.e., pursuant to the User Agreement). Notwithstanding the above, the Receiving Party may disclose the Disclosing Party's CI, without violating this Agreement, to the extent such disclosure is required by a valid order of a court or other governmental body having jurisdiction, provided that, the Receiving Party gives the Disclosing Party reasonable prior written notice of such disclosure and makes a reasonable effort to obtain, or to assist the Disclosing Party in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the CI so disclosed be used only for the purposes for which the law or regulation required, or for which the order was issued.

6. Intellectual Property Rights and Ownership.

As between the Parties, Intellectual Property Rights in any content, software, information, technology, data and/or materials, trademarks, brand names, and any derivative works thereof, supplied or made available by a party under this Agreement will remain property of that party. The aforementioned in no way grants to either party a right to violate the other party's Intellectual Property Rights. Customer hereby grants LinkedIn a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the LinkedIn website or any of LinkedIn's services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Customer's Users.

7. Term and Termination.

7.1 Term and Termination. This Agreement is effective as of the Effective Date and will remain in effect until terminated in accordance with this Agreement. Any obligation to pay for, and the term of service for, any Premium Services purchased by Customer will be set forth in the applicable Order Form. Subject to sections 2.1 and 7.2 below, subscription based Premium Services are non-refundable and non-cancellable during the term set forth in the Order Form.

7.2 Termination for Cause. Either Party may terminate this Agreement immediately upon notice to the other Party (i) if the other Party files a voluntary petition for bankruptcy or a petition or answer seeking reorganization; (ii) if the other Party has filed against it an involuntary petition for bankruptcy that has not been dismissed within sixty (60) days thereof; (iii) if the other party admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (iv) if the other Party applies for or consents to the appointment of a receiver, trustee or liquidator for substantially all of its assets or such a receiver, trustee or liquidator is appointed for the other Party; or (v) upon the occurrence of a material breach of this Agreement by the other Party which has not been remedied within thirty (30) days of notice of any material breach. If this Agreement or any Order Form is terminated by Customer due to LinkedIn's material breach, then LinkedIn will refund a pro-rata share of pre-paid fees, if any, for the remainder of the applicable term of the given Premium Services commencing on the termination date. LinkedIn is not required to provide any refund if this Agreement or any Order Form is terminated otherwise.

7.3 Termination Without Cause. If all Order Forms have expired or been terminated consistent with the terms herein, either Party may terminate the Agreement by providing written notice.

7.4 Suspension of Premium Services. LinkedIn reserves the right to suspend the Premium Services, in whole or part, with or without notice, if LinkedIn reasonably suspects Customer is in breach of the terms and conditions of this Agreement. Any such suspension will continue only for as long as reasonably necessary to remedy the breach (to the extent the breach may be remedied) and LinkedIn will promptly re-initiate access to the Premium Services thereafter.

7.5 Effect of Termination. Upon termination or expiration of this Agreement or any Order Form (a) except for the right to accrued Fees, all rights granted by LinkedIn herein will terminate immediately; (b) any and all payment obligations will be due, as provided in Section 3 (Fees and Payments) and the applicable Order Form; (c) Customer will notify Customer's Users that their access to the Premium Services has terminated, and (d) LinkedIn may withhold, remove or discard any content posted by Customer in the Premium Services. LinkedIn has no obligation to store, maintain or provide a copy of any content that Customer or any of Customer's Users make available or in any way provide when using LinkedIn services.

LinkedIn Confidential and Proprietary

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7.6 Survival. All sections by their nature that are intended to survive will survive the termination of this Agreement, including the following: Section 2 (Access to the Premium Services), Section 3 (Fees and Payments), Section 4.4 (Storage of LinkedIn Member Data), Section 4.5 (Monitoring; Audit), Section 5 (Confidential Information), Section 6 (Intellectual Property Rights and Ownership), Section 7.5 (Effect of Termination), Section 7.6 (Survival), Section 8 (No Express or Implied Warranty), Section 9 (Third Party Indemnity), Section 10 (Limitation of Liability), Section 11.2 (Governing Law; Attorneys Fees), Section 11.3 (Remedies; Injunctive Relief) and Section 12 (General).

8. No Express or Implied Warranty.

LINKEDIN DOES NOT AND CANNOT WARRANT THAT THE PREMIUM SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE PREMIUM SERVICES ARE PROVIDED "AS IS" AND THAT, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, LINKEDIN MAKES NO GUARANTEES, CONDITIONS, COVENANTS, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATION, WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, OR ANY REPRESENTATION, WARRANTY OR CONDITION ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE.

9. Third Party Indemnity.

9.1 Indemnification by LinkedIn. To the maximum extent permitted by applicable law, LinkedIn agrees to defend, hold harmless and indemnify Customer, its affiliates, and their respective directors, officers and employees (each, a "**Customer Indemnified Party**") from and against all claims, damages, losses, judgments, liabilities, penalties, interest, costs and expenses, including but not limited to reasonable and documented legal fees and costs and settlement costs ("Damages") arising out of a claim by a third party against any and all Customer Indemnified Parties to the extent resulting from, alleged to have resulted from, or in connection with (a) the Premium Services' infringing or misappropriating a third party's copyright, trademark, trade secret or US patent; or (b) breach of any obligation herein by LinkedIn.

9.2 Indemnification by Customer. To the maximum extent permitted by applicable law, Customer agrees to defend, hold harmless and indemnify LinkedIn, its affiliates, and their respective directors, officers and employees (each, a "**LinkedIn Indemnified Party**") from and against all Damages arising out of a claim by a third party against any and all LinkedIn Indemnified Parties to the extent resulting from, alleged to have resulted from, or in connection with (a) misuse of the Premium Services by Customer or Customer's User, or (b) breach of any obligation herein by Customer or Customer's Users.

9.3 Indemnification Procedures. The Indemnified Party will give prompt written notice of any indemnified claim. The Indemnified Party will allow the indemnifying party sole control of the defense and related settlement negotiations for such claim, provided however, (a) the Indemnified Party will have the right to approve or disapprove any settlement or compromise, which approval will not be unreasonably withheld or delayed, and (b) the Indemnified Party will have the right to approve the attorneys that the indemnifying party retains for any claim, which approval will not be unreasonably withheld or delayed. The Indemnified Party will assist and cooperate in the defense and settlement negotiations as requested by the indemnifying party and at the indemnifying party's expense. If the indemnifying party fails to (i) notify the Indemnified Party of indemnifying party's intent to take any action within fifteen (15) days after receipt of a notice of a claim, or (ii) proceed in good faith with the prompt resolution of the claim, the Indemnified Party, with prior written notice to the indemnifying party and without waiving any rights to indemnification, including reimbursement of reasonable legal fees and costs, may defend or settle the claim without the indemnifying party's prior written consent. The indemnifying party will reimburse the Indemnified Party on demand for all Damages incurred by the Indemnified Party in defending or settling the claim.

10. Limitation of Liability.

EXCEPT WITH RESPECT TO OBLIGATIONS UNDER SECTION 5 (CONFIDENTIAL INFORMATION), SECTION 9 (THIRD PARTY INDEMNITY) OR VIOLATION OF LINKEDIN'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL OR RELIANCE DAMAGES RELATED TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOST PROFITS, LOST REVENUES, AND LOST BUSINESS OPPORTUNITIES, WHETHER THE OTHER PARTY WAS OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF THESE DAMAGES. LINKEDIN WILL NOT BE LIABLE TO CUSTOMER FOR ANY DAMAGES ARISING OUT OF OR RELATING TO (A) LOST OR ALTERED TRANSMISSIONS; OR (B) THIRD PARTY UNAUTHORIZED ACCESS TO OR THEFT, ALTERATION, LOSS OR DESTRUCTION OF CUSTOMER'S OR CUSTOMER'S USERS' RESPECTIVE CONTENT, DATA, PROGRAMS, INFORMATION, NETWORK OR SYSTEMS.

IN ANY EVENT, OTHER THAN FOR CLAIMS ARISING UNDER SECTION 5 (CONFIDENTIAL INFORMATION) OR SECTION 9 (THIRD PARTY INDEMNITY), THE LIABILITY OF EACH PARTY FOR DAMAGES UNDER THIS AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID OR PAYABLE HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY. THE PARTIES AGREE THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

11. Dispute Resolution.

11.1 Negotiation; Mediation. The Parties will promptly attempt to resolve any issue, dispute, or controversy arising out of or relating to this Agreement among themselves through good-faith informal negotiation. If initial negotiation does not resolve the dispute, each Party will escalate to the executive sponsor of this agreement (for LinkedIn, the Vice President of Sales) to attempt to resolve the dispute. If the Parties are unable to resolve the dispute through such negotiation, they will participate in mediation before an agreed mediator from Judicial Arbitration and Mediation Services ("**JAMS**"). Either Party may initiate mediation by providing a written request for mediation, which describes the dispute and the requested relief, to the other Party and to JAMS. The Parties will cooperate with JAMS and with one another in selecting a mediator from a JAMS panel of neutrals and in scheduling the mediation proceedings. The mediation will take place at a JAMS facility in Northern California, USA and will be scheduled within thirty (30) business days after the request. The Parties will participate in the mediation in good faith. Each Party will bear its own expenses in mediation but will share all fees to JAMS equally. Nothing contained in this section shall be construed to preclude any party from seeking injunctive relief pursuant to this Agreement in order to protect its rights pending mediation.

11.2 Governing Law; Attorneys Fees. This Agreement will be governed by and construed in accordance with the laws of the State of California as such laws apply to contracts between California residents performed entirely within California, USA. Any action or proceeding arising from or relating to this Agreement that is not resolved through mediation must be brought in a federal court in the Northern District of California or in state court in Santa Clara County, California, USA and each Party irrevocably submits to the jurisdiction and venue of any such court. In the event of litigation between the Parties arising out of or related to this Agreement, the prevailing Party will be entitled to recover its attorneys' fees and costs incurred.

11.3 Remedies; Injunctive Relief. All rights and remedies of the Parties under this Agreement, in law or at equity, are cumulative and may be exercised concurrently or separately. The exercise of one remedy will not be an election of that remedy to the exclusion of other remedies. A Party's breach or threatened breach of any of its covenants or agreements in this Agreement may cause irreparable injury that is inadequately compensable in monetary damages. Accordingly, the other Party will be entitled to seek injunctive or other equitable relief in any court of competent jurisdiction for the breach or threatened breach of this Agreement, in addition to any other remedies in law or equity.

12. General.

12.1 Changes to Premium Services. LinkedIn is always working to improve the features of the Premium Services and during the term, Customer is entitled, free of charge, to receive access to upgrades and other modifications made to the Premium Services. In that regard, LinkedIn reserves the right, anytime and without notice, to make changes to the Premium Services or any features of the Premium Services, so long as, in its reasonable judgment, the features in the aggregate are at least equal to or greater than those available as of the effective date of any Order Form.

12.2 Notices. All notices given under this Agreement will be in writing and delivered by personal delivery or commercial overnight courier to the address that Customer provided to LinkedIn when Customer accepted this Agreement. Notices will be given on the date of personal delivery or the date of delivery by courier (as indicated on the courier's records).

12.3 Costs and Expenses. Except as expressly provided for elsewhere in this Agreement, each Party will be responsible for all costs and expenses incurred by such Party in performing its obligations or exercising its rights under this Agreement.

12.4 Relationship Between The Parties. Nothing in this Agreement will be construed as creating a partnership or joint venture of any kind between the Parties, and neither Party will have the authority or power to bind the other Party or to contract in the name of or create a liability against the other Party in any way or for any purpose.

12.5 Assignment. Neither party may assign this Agreement, in whole or in part, without the other party's prior written consent, except that either party may assign this Agreement to a successor in interest in the event of a reorganization, merger, consolidation or sale of all or substantially all of its assets or stock. Any assignment in violation of this section is null and void.

12.6 Force Majeure. Except for any payment obligations, neither Party will be liable to the other for failure to fulfill obligations hereunder if such failure is due to causes beyond its control, including, without limitation, acts of God, earthquake, fire, flood, embargo, catastrophe, sabotage, utility or transmission failures, governmental prohibitions or regulations, national emergencies, insurrections, riots or wars, or viruses which did not result from the acts or omissions of such Party, its employees or agents, strikes, work stoppages or other labor difficulties, or outages of any part of the network ("**Force Majeure Event**"). The time for any performance required hereunder will be extended by the delay incurred as a result of such Force Majeure Event.

12.7 Miscellaneous. In the event that this Agreement is translated into any other language, the English language version hereof will govern. The titles, headings and subheadings used throughout this Agreement are intended solely for convenience of reference and form no part of the terms of this Agreement. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, void, or unenforceable, such provision will be modified so as to render it enforceable and effective to the maximum extent possible in order to effect the intention of this Agreement; and if such provision will be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof will not in any way be affected or impaired thereby.

12.8 Export Laws. Each Party shall comply with applicable export laws and regulations of the United States or other jurisdictions.

12.9 Use of Agents. Customer may permit those third parties ("Agents"), identified in an "Agency Addendum" hereto, to purchase Services on Customer's behalf, and Customer agrees to be bound by the terms of any Order Form entered into by such Agents.

12.10 Entire Agreement. This Agreement, the User Agreement, and each Order Form entered into during the term of this Agreement, constitute the entire agreement between the Parties with respect to the subject matter hereof. This Agreement cancels and supersedes any and all prior proposals (oral or written), understandings, representations, conditions, warranties, covenants and other communications between the Parties, which relate to the subject matter of this Agreement. This Agreement may not be amended or supplemented except as provided herein or pursuant to a written instrument signed by both Parties. A Party's waiver of any breach of this Agreement by the other Party will not constitute a waiver of any rights or any subsequent breach of the same or different provision hereof. To be enforceable, a waiver must be in writing signed by a duly authorized representative of the waiving Party. In the event of any conflict between this Agreement, any Order Form and the User Agreement, this Agreement will govern, followed by the Order Form and the User Agreement, in order of priority.

12.11 Counterparts; Electronic Signature. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall comprise a single document. A signature delivered electronically shall be deemed to be an original.