



LeadMaster Reseller Partner Program Participation Agreement

This agreement (the "**Agreement**") is effective as of _____, 20__ (the "**Effective Date**") by and between LeadMaster, Inc. a Georgia corporation ("**LeadMaster**") and «**Company**» ("**Participant**"). The parties desire to work together through participation in LeadMaster's Reseller Partner Program (the "**Program**") through which Participant agrees to market certain LeadMaster application services (each a "**Service**" and collectively the "**Services**" as defined below) to potential customers ("**End Users**") as part of the Participant's overall product and/or services offerings.

DEFINITIONS

1. "**End User**" is a customer that enters into a Qualifying Service Agreement (defined below) with Participant as a direct result of the efforts of the Participant.
2. "**Qualifying Service Agreement**" is an order or agreement for Services executed by an End User and accepted by Participant that meets the criteria set forth in this Agreement.
3. "**Service**" is any of the LeadMaster products and services that may be offered by the Participant to the End User pursuant to authorization from LeadMaster under the LeadMaster Reseller Partner Program and this Agreement.
4. "**LeadMaster Reseller**" is an entity authorized by LeadMaster to market Services on behalf of LeadMaster.
5. "**Terms and Conditions**" are the LeadMaster Marketing Programs Terms and Conditions, which govern this Program and are attached hereto as Exhibit B and are incorporated in this Agreement by reference. All references to this Agreement shall include the Terms and Conditions.

MARKETING ACTIVITIES BY PARTICIPANT

1. Participant shall market the Services to, and solicit orders for Services from, End Users.
2. During the Term of this Agreement (as defined below), Participant may represent itself as an authorized LeadMaster Reseller Partner Program Participant for the procurement of orders for the Services from End Users.
3. Fees for Services that may be communicated by Participant to End Users are determined solely by Participant. Charges to Participant by LeadMaster shall be initially as set forth in this Agreement in Exhibit A as agreed by LeadMaster and Participant according to the guidelines outlined herein.
4. Participant may use the LeadMaster Reseller Partner Program mark or other LeadMaster names or marks identified and authorized by LeadMaster from time to time under this Agreement on Participant's business cards, letterhead and in related sales, marketing and promotional materials solely for the purpose of identifying Participant as an authorized LeadMaster Partner and identifying the source of the Services. Participant acknowledges that all use of any such names and marks by Participant, and that any goodwill arising therefrom shall inure to the sole benefit of LeadMaster. Participant will not, during the Term of this Agreement, and thereafter, assert any claim to the marks or names or such goodwill. Participant further agrees that during the Term of this Agreement they will not intentionally take any action that would be harmful to the goodwill associated with the marks or names or to LeadMaster.
5. All activities by Participant hereunder, including without limitation its use of any LeadMaster marks, are also subject to the Terms and Conditions in Exhibit B hereto.



6. Participant shall have the option to “**private label**” the LeadMaster products and services covered by this Agreement, including a product name and logo, so that the application logon and interface as well as marketing materials can be adapted to take on some aspects of the Participant’s look and feel. If Participant elects this option, Participant will submit the proposed product name and any related artwork to LeadMaster for approval of Participant’s private label name and logo, which will not be unreasonably withheld or delayed. LeadMaster shall provide Participant with all necessary specifications for all such artwork as it relates to the private labeling of the application. Once Participant’s private label identity has been reviewed and approved, LeadMaster agrees not to market its products and services using Participant’s private label name or logo. LeadMaster will not use or assert any claim to Participant's private label marks, logos, or names or goodwill or advertising and marketing materials developed by Participant for this program.

TERM AND TERMINATION

The scheduled term of this Agreement (the “Term”) shall be an initial term of one (1) year beginning on the Effective Date and continuing thereafter on an annual basis until terminated in writing by either party at least ninety (90) days prior to the end of the agreement term, unless for material breach of this Agreement and not cured within thirty (30) days of written notice or otherwise as provided in Exhibit B.

QUALIFYING SERVICE AGREEMENTS; DISCOUNTS

1. Qualifying Service Agreements. To enter into a Qualifying Service Agreement, the prospective End User must not be a current End User contracted by LeadMaster or by another LeadMaster Reseller.

2. Extensions or Modifications to Services. Once a Qualifying Service Agreement is procured by Participant for an End User, any subsequent modification, upgrade, replacement or new order for Services for the same End User shall be considered to be part of the original Qualifying Service Agreement.

3. Changes to Pricing and Discount Structure. LeadMaster reserves the right to modify, improve or change pricing for any subsequent renewal provided that Participant is notified of such changes in writing at least ninety (90) days prior to the commencement of such renewal period.

4. Participant as the End User. **LeadMaster agrees to provide a 5-user license to Participant at no charge for its internal use during the first 6 months of this Agreement.** Participant must sell a minimum of 20 licenses per year to continue receiving the free 5-user license. Participant agrees to use said service for internal sales, marketing and training purposes only and shall not sell, lease, transfer or provide access to the same to any third party. This system is provided to Participant as an additional tool to assist in winning sales to End Users and is provided by LeadMaster to Participant at no cost with the understanding that Participant will energetically pursue Qualifying Service Agreements with End Users. LeadMaster reserves the right to modify or eliminate the free service at any time.

TRAINING

LeadMaster agrees to provide Participant with basic administrator training on the Services at a facility or electronically as determined by LeadMaster, without charge to Participant for such training, so that Participant may perform its duties under this Agreement. The nature and extent of such training shall be determined by LeadMaster. Participant agrees to be trained and certified by LeadMaster on the Services covered by this Agreement, and shall bear all travel, lodging or other costs and expenses of sending its employees or representatives to attend such training. Additional administrator training, end user training and technical support services will be provided to Participant under the terms and pricing outlined in Exhibit A according to the type of Services purchased.

RELATIONSHIP WITH END USER



All Qualifying Service Agreements will be between the End User and Participant. LeadMaster's relationship will be with Participant alone and LeadMaster will look solely to Participant for payment with respect to Services purchased from LeadMaster whether such purchases are for End User customers of Participant or for Participant's own account. Participant's obligation to pay LeadMaster for Services ordered will be absolute notwithstanding any failure of an End User to pay Participant for the Services ordered. Unless otherwise requested or directed by LeadMaster, Participant shall remain the principal point of contact for the End User for initial implementation and ongoing user administration (adds, moves and changes).

ENTIRE AGREEMENT

1. This Agreement, including all schedules, exhibits and attachments, contains the entire agreement between the parties and supersedes any prior or inconsistent agreements, negotiations, representations and promises, written or oral. Unless in writing and signed by the parties, no modification, course of conduct, amendment, failure to enforce any term, or require performance shall be binding or construed as a waiver.
2. This Agreement shall be governed by the laws of the State of Georgia, without regard to conflict of law principles.
3. This Agreement may be assigned by Participant to its affiliates or successors without the prior written approval of LeadMaster. LeadMaster may assign this Agreement, or cause some or all of its rights and obligations hereunder to be assumed by any parent or wholly owned subsidiary of LeadMaster, including its parent company LeadMaster LLC. Each party acknowledges it has read this Agreement, understands it, and agrees to be bound by its terms, including the Terms and Conditions attached hereto.

In witness whereof, the parties have entered into this Agreement, effective as of the date set forth above:

LeadMaster Operating Company, Inc.

Participant: «Company»

Signature: _____

Signature: _____

Name (Print): _____

Name:

Title: _____

Title:

Address: 885 Woodstock Rd., Suite 430, Box 311

Address:

Roswell, GA 30075



LEADMASTER
PARTNER PROGRAM
EXHIBIT A

Suggested Retail Pricing: LeadMaster suggests the following pricing for end users. Final pricing is up to the individual partner.

Version	List Price 1-99 Licenses	List Price 100-249 Licenses	List Price 250-499 Licenses
Enterprise Edition with API*	\$65	\$60	\$55
Professional**	\$45	\$42	\$40
Single User***	\$599/yr	\$599/yr	\$599/yr

Partner Program Pricing: Pricing to Participant for the Original Term of the Services is available through the Channel Manager.



LeadMaster Marketing Programs Terms and Conditions

1. **Nature of Relationship**. These Terms and Conditions shall apply to any LeadMaster Marketing Programs that reference them, including the LeadMaster Reseller Partner Program. All references herein to the Participant's participation in any applicable Program shall be deemed to include any related Marketing Program participation agreement between LeadMaster and Participant, however styled ("Agreement"), and any reference to the Agreement shall include these Terms and Conditions. The purpose of these Programs is to define the means by which participating companies ("Participants") may assist LeadMaster in the promotion of its "LeadMaster" family of sales lead tracking and management application services (collectively, the "Services") including, without limitation and to the extent mutually agreed, the identification, qualification and referral of prospective customers to LeadMaster for the provision of the Services. Participation in any Program will not constitute the creation of a legal representative or agency relationship, joint venture or partnership between the parties, nor shall any party have the right or authority to assume, create, or incur any liability or obligation of any kind, expressed or implied, against, or in the name of, or on the behalf of the other party, except to the extent expressly stated in an Agreement. Participant understands and agrees that it does not represent LeadMaster or any of LeadMaster's affiliate companies. Specifically and without limiting the generality of the foregoing, Participant shall be authorized only to promote to potential End Users LeadMaster's standard Services to be ordered and purchased on LeadMaster's approved ordering documentation which may be received by Participant under its Agreement but which are to be submitted to LeadMaster for approval and acceptance in accordance with the standard procedures established by LeadMaster from time to time. Participant shall not be authorized (and shall not represent itself as being authorized) to accept or execute any order for such Services on behalf of LeadMaster; to make or accept any changes to any such documentation; or to make any representations or warranties of any nature whatsoever with respect to LeadMaster's Services. The relationship of the parties is, and at all times will continue to be, that of independent contractor. Participant shall conduct its business at its own initiative, responsibility, and expense.

2. **Non-exclusive Agreement**. Participation in any Program is non-exclusive and at the sole discretion of LeadMaster. LeadMaster may actively continue to market, promote, and sell its Services through LeadMaster's own sales force, through other Participants or representatives or through other means.

3. **Non-Solicitation**. LeadMaster will not actively solicit End Users who are receiving LeadMaster products and services under a Qualifying Service Agreement with Participant.

4. **LeadMaster's Marks**.

(a) **Use of Marks**. LeadMaster will from time to time provide and may periodically update a list of Names and Marks (collectively the "Marks"), which Participant is authorized to use under its Agreement. The most currently updated list will always supersede any previously issued list. Such list will also be supplemented with rules and regulations pertaining to the Marks, which Participant agrees to follow. Participant shall strictly comply with all graphic standards for the Marks, which may be furnished from time to time and shall place appropriate trademark and service mark notices relating to the Marks as instructed. All media advertising and printed material in which the Marks are used shall be submitted to LeadMaster for review in advance and shall not be distributed or used in any manner without the prior written approval of LeadMaster, which will not be unreasonably withheld or delayed. Any use of the Marks which is not authorized herein or by an authorized representative of LeadMaster shall be strictly prohibited. Any use of the Marks which is inconsistent with the terms hereof shall be grounds for immediate termination of Participant's participation in any Program if Participant has not cured this within thirty (30) days of receipt of written notice. Any failure to select this remedy on any occasion shall not constitute a waiver of LeadMaster's rights under this paragraph.

(b) **Procedure on Termination**. Upon the expiration, termination or cancellation of Participant's participation in any Program, Participant shall immediately cease all uses of the Marks and shall promptly destroy or return to LeadMaster all printed material and other tangible items bearing the Marks and shall certify same in writing to LeadMaster within thirty (30) days of the expiration, termination or cancellation date.

(c) **No Interest in Marks.** Participant recognizes that nothing contained in its Agreement is intended as an assignment or grant to Participant of any right, title, or interest in or to the Marks or the goodwill attached thereto and that the Agreement does not convey the right to Participant to grant sublicenses and is not assignable. No licenses or other intellectual property rights, express or implied, are granted by either party to the other, except as provided for in an Agreement. Participant further recognizes that all use of Marks by Participant shall inure to the benefit of, and be on behalf of, LeadMaster and its parent, LeadMaster LLC. Participant recognizes the validity of, and will do nothing inconsistent with, LeadMaster ownership of the Marks, and acknowledges that LeadMaster shall have the right to immediately cancel Participant's participation in any Program in the event that, in LeadMaster's opinion, Participant acts in a manner which would negatively impact the reputation of LeadMaster or any of its affiliates or would infringe or dilute the value of any of the Marks and if Participant has not cured this within thirty (30) days of receipt of written notice.

5. **Right to Alter Terms.** The prices at which the Services are sold by LeadMaster shall be determined by LeadMaster. LeadMaster reserves the right to alter or eliminate the Services or any Program or any aspect thereof. Pricing for Services during the Original Term of the Agreement and any Renewal Period thereafter as set forth in Exhibit A shall remain in effect for said period unless LeadMaster and Participant agree that the specifications of such Services has changed significantly so as to warrant revision of the pricing structure, including discounts to Participant. LeadMaster shall inform Participant in writing of any change(s) in the prices or terms upon which it is generally willing to accept orders for Services, including where applicable payment and standards of creditworthiness, physical availability of product, order format, data requirements, and other specifications that may be relevant to the level of activity being performed by Participant under its Agreement.

6. **Advertising and Promotion; Use of Participant's Marks and Materials.** LeadMaster shall supply Participant from time to time, at its then-current charge, if any, with a reasonable number of brochures, price lists, and other material necessary for promoting the sale of the Services. Any portion of the aforementioned material that remains unused at the time LeadMaster makes changes in the Services which render the existing materials inaccurate, or upon termination of the Agreement for any reason, shall be promptly returned to LeadMaster if requested or else destroyed by Participant with written confirmation to that effect. LeadMaster may, at its sole discretion, enter into joint advertising and promotional campaigns with Participant under terms and conditions agreed to by the parties. Under no circumstances is LeadMaster obligated or required to advertise, market or promote for or on behalf of Participant, regardless of any joint activity LeadMaster may engage in with any other Participants. LeadMaster shall have the right, without further compensating Participant, to include in advertising by LeadMaster or any of LeadMaster's affiliates references to Participant's status as a Participant in the applicable Program and involvement with the Services, subject to the approval of the Participant. This may include, without limitation, the placing of information about and/or links to Participant in special areas of the LeadMaster Internet site(s) dedicated to Program Participants, or on other LeadMaster Web sites or on-line locations. All such links or other informational or promotional placements may be removed or disabled by LeadMaster at any time with or without cause. If Participant provides any logos, marks, content or other materials ("Materials") to LeadMaster for inclusion in such links or placements, Participant warrants that it owns or has the right and authorization to provide such Materials to LeadMaster. Upon termination of this Agreement, LeadMaster agrees to remove all references to Participant from the LeadMaster Web sites or other on-line locations and agrees to destroy or return all copies of any written materials that reference Participant or its marks and certify to the Participant that all such materials have been returned or destroyed.

7. **Termination.** Subject to the post-termination obligations covered in the Agreement, the Agreement may be terminated with or without cause by either party at any time during or after the initial term, provided that written notice is given to the other party at least ninety (90) days prior to the end of the agreement term, unless for material breach of this Agreement and not cured within thirty (30) days of written notice. Immediately upon termination, LeadMaster agrees to return all End User data to Participant. No termination of an Agreement shall affect any accrued rights or obligations of either party as of the effective date of such termination, nor shall it affect any rights or obligations of either party that by their nature should survive any such termination. In particular, but not by way of limitation, no such termination shall act to nullify or discharge the post-agreement rights and obligations of the parties contained in this Agreement, including but not limited to the indemnification provisions of this Agreement. Neither party possesses nor shall be deemed to possess any right of property in or incident to the Agreement or

Participant's participation in any Program, and the parties agree that any termination of the Agreement according to the formalities specified herein, and based on the conditions required by the provision under which such termination is effected, shall not constitute an unfair or abusive termination or create any liability of the terminating party to the terminated party not otherwise set forth in the Agreement. The right of either party to terminate the Agreement is not an exclusive remedy, and either of them shall be entitled, alternately or cumulatively, to damages for breach of the Agreement, injunction or other court order requiring performance of obligations of this Agreement or other remedy under applicable law, subject to the limitations of liability and damages set forth in these Terms and Conditions.

8. **Hosting.** LeadMaster agrees to provide Participant and its End Users Hosting Services for End Users' custom web forms and their respective LeadMaster online databases. LeadMaster can not be held responsible for slow response times, disruptions to service, or network outages resulting from (a) the performance of any upstream provider, (b) the business practices, negligence or network problems of our contracted service provider(s), (c) telecommunication line failures, heavy or overbearing Internet activity, power failures, saturation in Internet traffic, equipment failures resulting from events of Force Majeure or other circumstances beyond LeadMaster's reasonable control.

9. **Service.** LeadMaster is committed to providing Participant with high levels of service and will make all reasonable attempts to provide consistent and reliable service. From time to time, scheduled outages will occur to allow for system upgrades, enhancements and general maintenance. LeadMaster agrees to perform such maintenance duties in such a manner so as to minimize any disruptions to its services to Participant and its End Users. When unscheduled outages do occur, LeadMaster will consider such outages to be of top priority and will work continuously to resolve the problem, advising Participant of progress as often as deemed appropriate. LeadMaster cannot be held responsible for problems, damages or outages resulting from (a) Participant's applications, equipment, or facilities, (b) acts or omissions of Participant, or any use or user of the service authorized by Participant or (c) reasons of Force Majeure or other circumstances beyond LeadMaster's reasonable control.

10. **Backup and Recovery.** LeadMaster will act in good faith to protect Participant's data with redundant systems and tape backup procedures or by any method that LeadMaster deems adequate. LeadMaster will work with Participant to determine mutually acceptable and reasonable means such as download procedures to provide Participant with assured access to End User data and both parties will act in good faith to carry out any and all responsibilities entailed by such procedures.

11. **Disclaimers.**

(a) Participant shall make no warranty or representation whatsoever to END USERS with respect to the Services provided to END USERS by LeadMaster. LeadMaster makes no warranty to Participant of any nature whatsoever with respect to the Services to be rendered to END USERS by LeadMaster. Any warranties by LeadMaster with respect to the Services shall be solely between LeadMaster and Participant. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, ALL WARRANTIES BETWEEN LEADMASTER AND PARTICIPANT, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND EXCLUDED.

(b) **Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER (OR SHALL LEADMASTER BE LIABLE TO ANY END USER OF ANY DESIGNATED LEADMASTER PRODUCT OR SERVICE) FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR CONTINGENT DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, INJURIES TO PROPERTY, LOSS OF TIME, INCONVENIENCE, LOSS OF USE OF ANY DESIGNATED LEADMASTER PRODUCT OR ASSOCIATED SERVICE, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR OTHER ECONOMIC LOSS WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, AND WHETHER THE CLAIM IS FOR BREACH OR REPUDIATION OR CONTRACT, TORT, BREACH OF WARRANTY, NEGLIGENCE, OR OTHERWISE. EXCEPT FOR INDEMNIFICATION CLAIMS UNDER SECTION 15 RELATING TO PERSONAL INJURY OR DAMAGE TO OR DESTRUCTION OF TANGIBLE PROPERTY, LEADMASTER'S LIABILITY UNDER, FOR BREACH OF, OR ARISING OUT OF THE AGREEMENT (INCLUDING THESE TERMS AND CONDITIONS OF SALE) AND/OR USE OF A DESIGNATED LEADMASTER PRODUCT OR SERVICE SHALL BE LIMITED TO AN AMOUNT EQUAL TO

THE PRICE OF THE AFFECTED DESIGNATED LEADMASTER PRODUCT OR SERVICE. THE ESSENTIAL PURPOSE OF THIS SECTION IS TO LIMIT THE POTENTIAL LIABILITY OF THE PARTIES ARISING OUT OF THESE TERMS AND CONDITIONS ON THE PURCHASE AND SALE OF DESIGNATED LEADMASTER PRODUCTS.

12. **Confidentiality.**

- (a) All information disclosed by LeadMaster to Participant pursuant to an Agreement, other than such information as may be generally available to the public or the industry, is disclosed to Participant in confidence solely for Participant's use in the conduct of its business as a Participant. Participant agrees to keep such information secret and confidential indefinitely and not to disclose it to any other person or use it during the term of the Agreement or after its termination except in carrying out its obligations hereunder or in response to obligations imposed by order of a court or regulatory body.
- (b) LeadMaster agrees not to disclose any confidential or proprietary information from Participant in connection with any Program; therefore, any information furnished or disclosed to LeadMaster by Participant, whether in regard to participant or its End Users, shall be held in strict confidence by LeadMaster.
- (c) Each Party shall use its best efforts to ensure that only employees and third parties whose duties give them a need to know such proprietary information of the other party shall have access thereto. All such persons and entities shall be instructed to treat the same as proprietary and confidential and the receiving Party shall take such other measures to protect the confidentiality of such proprietary information as it deems reasonable under the circumstances.
- (d) Each party shall take effective precautions, contractual and otherwise, reasonably calculated to prevent unauthorized disclosure or misuse of such information by any of its employees or by any other person having access to such information. Within ninety (90) days after the expiration or the termination of the Agreement by either party for any reason, each party agrees promptly to return to the other party, or to certify the destruction of, any physical or written records containing such information then in its possession, regardless of whether such physical or written records were prepared by Participant, by Participant's End Users or by LeadMaster.
- (e) If either party is served with process to obtain such information, the party shall immediately notify the other party, which shall, in addition to the former party's efforts, if any, have the right to seek to quash such process.
- (f) Both parties hereby acknowledge and agree that in the event of its breach of its obligations of confidentiality under this Section, the other party's remedies at law will be inadequate and that party will be entitled to injunctive relief.

13. **Notices and Other Communications.** Any notice or other information required or authorized by the Agreement to be given by either party to the other may be given by hand or sent (by first class prepaid mail, facsimile transmission, or comparable means of communication) to the other party at the address for notices set forth in the Agreement. Any notice or other information given by mail pursuant to this section which is not returned to the sender as undelivered shall be deemed to have been given on the fifth (5th) day after the envelope containing such notice or information was properly addressed, prepaid, registered, and mailed. The fact that the envelope has not been so returned to the sender shall be sufficient evidence that such notice or information has been duly given. Any notice or other information sent by facsimile transmission or comparable means of communication shall be deemed to have been duly sent on the date of transmission, provided that a confirming copy thereof is sent by first class prepaid mail to the other party at the address for notices set forth in the Agreement, within twenty-four (24) hours after transmission. Addresses for notices may be changed at any time by giving written notice as provided above.

14. **Governing Law.** The validity, construction, interpretation and performance of the Agreement and all transactions under it shall be governed by and construed in accordance with the law of the State of Georgia, without regard to its conflict of laws and rules.

15. **Mutual Indemnification**

- (a) Participant agrees to indemnify and hold harmless LeadMaster, and its directors, officers, employees and agents and each of them from and against any loss, costs, damages, claims, expenses (including attorneys' fees) or liabilities by reason of any injury to or death or disease of any person, damage to or destruction, theft or loss of any property or other damages arising out of, resulting from, or in connection with: (i) the performance or nonperformance of the obligations contemplated by the Agreement which is caused in whole or in substantial part by any act, omission, default, or negligence of Participant or its employees or agents and regardless of whether Participant's liability would otherwise be limited to payments under state worker's compensation or similar laws; and (ii) the failure of Participant to comply with any of the terms and conditions herein or the failure to conform to laws, statutes, ordinances, or other regulations or requirements or any governmental authority in connection with the performance of activities performed by Participant in connection with the Agreement, including actions brought by Participant's employees under worker's compensation or similar laws; (iii) any and all claims, liens, and/or suits for labor and materials furnished at Participant's request, and (iv) any and all claims that the use or distribution of the Participant's Materials, in the form delivered by Participant to LeadMaster, infringes any patent, trademark, or any copyright or any other proprietary right of a third party enforceable in the United States.
- (b) Participant shall, at its own cost, expense, and risk, defend any claim, suit, action or other legal proceeding (collectively "Action") for which Participant is hereunder obligated to indemnify LeadMaster. Participant shall promptly pay and satisfy any final, non-appealable judgment or decree which may be rendered against Participant or LeadMaster in any such Action and shall pay reasonable costs and reasonable attorneys' fees which may be incurred by LeadMaster in connection therewith in enforcing the indemnification provisions set forth above. Should Participant, in the reasonable judgment of LeadMaster ignore or fail to properly handle or defend any such Action, LeadMaster may, at its option, assume and undertake, or join in the handling or defense of any such Action, and in that event Participant will reimburse LeadMaster for reasonable attorneys' fees and other reasonable expenses incurred by it in handling or defending same, including any reasonable amounts paid in settlement thereof or satisfaction of any judgment rendered.
- (c) LeadMaster agrees to indemnify and hold harmless Participant, and its shareholders, directors, officers, employees and agents and each of them from and against any loss, costs, damages, claims, expenses (including attorneys' fees) or liabilities by reason of any injury to or death or disease of any person, damage to or destruction, theft or loss of any property or other damages arising out of, resulting from, or in connection with: (i) the performance or nonperformance of the obligations contemplated by the Agreement which is caused in whole or in substantial part by any act, omission, default, or negligence of LeadMaster or its employees or agents and regardless of whether LeadMaster's liability would otherwise be limited to payments under state worker's compensation or similar laws; and (ii) the failure of LeadMaster to comply with any of the terms and conditions herein or the failure to conform to laws, statutes, ordinances, or other regulations or requirements or any governmental authority in connection with the performance of activities performed by LeadMaster in connection with the Agreement, including actions brought by LeadMaster's employees under worker's compensation or similar laws; (iii) any and all claims, liens, and/or suits for labor and materials furnished at LeadMaster's request, and (iv) any and all claims that the use or distribution of LeadMaster's Materials, in the form delivered by LeadMaster to Participant, infringes any patent, trademark, or any copyright or any other proprietary right of a third party enforceable in the United States.
- (d) LeadMaster shall, at its own cost, expense, and risk, defend any claim, suit, action or other legal proceeding (collectively "Action") for which LeadMaster is hereunder obligated to indemnify Participant. LeadMaster shall promptly pay and satisfy any final, non-appealable judgment or decree which may be rendered against LeadMaster or Participant in any such Action and shall pay reasonable costs and reasonable attorneys' fees which may be incurred by Participant in connection therewith in enforcing the indemnification provisions set forth above. Should LeadMaster, in the reasonable judgment of Participant ignore or fail to properly handle or defend any such Action, Participant may, at its option, assume and undertake, or join in the handling or defense of any such Action, and in that event LeadMaster will reimburse Participant for

reasonable attorneys' fees and other reasonable expenses incurred by it in handling or defending same, including any reasonable amounts paid in settlement thereof or satisfaction of any judgment rendered.

16. **Licenses**. No licenses express or implied, under any patents or other intellectual property rights are granted by LeadMaster to Participant hereunder nor by Participant to LeadMaster.

17. **Limitation on Actions**. No action, regardless of its form, arising out of this Agreement, may be brought by either party more than two (2) years after the cause of action has arisen.

18. **Publicity and Advertising**. LeadMaster retains the right to advertise the Services and any Program to a degree and manner in keeping with LeadMaster's then current promotional and advertising programs; however, LeadMaster is under no obligation to advertise any Program or its Services in any manner or to any degree. Participant agrees to submit to LeadMaster all advertising, sales promotion, press releases and other publicity matters relating to any Program or the Services by Participant under the Agreement wherein the Program, the Services or any corporate or trade names, logos, trademarks, or service marks of LeadMaster and/or any of its affiliated companies are mentioned, or language from which the connection of said names or trademarks therewith may be inferred or implied; and Participant further agrees not to publish or use such advertising, sales promotions, press releases, or publicity matters without LeadMaster's prior written approval, which shall not be unreasonably withheld or delayed.

19. **Severability**. Except as expressly provided to the contrary herein, each term and condition of this Agreement, and any portion thereof, shall be considered severable and if, for any reason, any such provision hereof is held to be invalid, contrary to, or in conflict with any applicable present or future law, regulation or public policy in a final, unappealable ruling issued by any court, agency or tribunal with competent jurisdiction in a proceeding to which LeadMaster or Participant is a party, that ruling shall not impair the operation of, or have any other effect upon, such other portions of the Agreement as may remain otherwise enforceable.

20. **Entire Agreement**. The Agreement sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained therein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in the Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized official of the party to be bound thereby.

21. **Survival of Obligations**. Any respective obligations of LeadMaster and Participant hereunder which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, including, by way of example but not limited to, "Confidentiality" and "Indemnification", shall survive such termination, cancellation or expiration.