



Subscription Agreement

Terms & Conditions / This Subscription Agreement (the "Agreement"), dated as of the Effective Date (as defined below), is between Rebel Idealist Inc. dba Donorbox ("Donorbox") and the subscriber that signs up for any Donorbox subscription that requires a HubSpot-powered proposal, described herein ("Subscriber") (each a "Party", and collectively, the "Parties"). The term Subscriber also includes its Authorized Users (as context permits).

Recitals

WHEREAS,

Donorbox has developed certain proprietary platform and associated services designed to facilitate donations management and fundraising activities (the "Donorbox Solution", as further defined below);

WHEREAS,

Subscriber wishes to obtain a subscription license to use the Donorbox Solution for the purposes set forth in this Agreement; and

WHEREAS,

Donorbox is willing to provide such subscription license to Subscriber, all on the terms and conditions set forth in this Agreement;

NOW, THEREFORE,

for good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Agreement

1. Definitions.

For purposes of this Agreement, the following capitalized terms have the meanings set forth below. Other capitalized terms are defined in context.

1.1. Access Credentials. The term "Access Credentials" has the meaning set out in Section 3.1.3 (Access Credentials).

1.2. Authorized User. The term "Authorized User" means any of Subscriber's individual employees, agents, and representatives, to whom Access Credentials have been provided.

1.3. De-Identified Data. The term "De-Identified Data" means information that meets each of the following criteria: the information: (i) does not identify a particular natural person; (ii) does not identify, by network Internet Protocol address, raw hardware serial number, or raw MAC address, a particular device or computer associated with or used by a person; and (iii) is not reasonably linkable to a particular natural person due to technical, legal, or other controls.

1.4. Documentation. The term "Documentation" means all printed or electronic: (i) user manuals and training materials; (ii) product descriptions and other specifications (including performance standards); (iii) requirements; and (iv) technical and operating manuals.

1.5. Donorbox Platform. The term "Donorbox Platform" means: (i) the specific online platform to which Donorbox provides Subscriber with access, as further described in the associated Documentation; (ii) the Donorbox System; and (iii) any Donorbox- provided modifications, enhancements, or updates to the foregoing.

1.6. Donorbox Solution. The term "Donorbox Solution" means: (i) the Donorbox Platform; (ii) the Services; (iii) Documentation; and (iv) any Donorbox-provided modifications, enhancements, or updates to the foregoing.

1.7. Donorbox System. The term "Donorbox System" means the software, business rules, methods, data, know-how, and technology developed or acquired by Donorbox to enable the services it provides to its customers, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Donorbox or through the use of third party services.

1.8. Effective Date. The term "Effective Date" means the effective date set forth on the HubSpot-powered proposal.

1.9. Initial Term. The term "Initial Term" means the period of time after the Effective Date, as determined by the Subscriber's Donorbox subscription and as detailed on the HubSpot-powered proposal.

1.10. Intellectual Property Rights. The term "Intellectual Property Rights" means any rights existing now or in the future under patent law, copyright law, trademark law, data and database protection law, trade secret law, and any and all similar proprietary rights. The term "Intellectual Property Rights" means those rights as they exist as of the Effective Date, and all such rights subsequently acquired.

1.11. Other Agreements. The term "Other Agreements" means the Donorbox Acceptable Use Policy, the Donorbox Terms of Service, the Donorbox Privacy Policy, the Donorbox Responsible Disclosure Policy, or other agreements that the Parties enter into or that Donorbox makes available to Subscriber.

1.12. Proposal. The term "Proposal" means the HubSpot powered proposal that Donorbox sent to Subscriber.

1.13. Services. The term "Services" means those services that Donorbox makes available to Subscriber pursuant to the Agreement, as detailed in the Summary section found within the Proposal.

1.14. Subscriber Data. The term "Subscriber Data" means all data, information, content, work, and other material that Subscriber or its Authorized Users upload to or otherwise make available via the Donorbox Solution.

1.15. Support Services. The term "Support Services" has the meaning set forth in Section 2.2 (Support Services; Availability).

1.16. Term. The term "Term" has the meaning set forth in Section 12.1 (Term).

2. Donorbox Services.

2.1. Services. Donorbox makes no guarantees as to the continuous availability of the Services or of any specific feature(s) of the Services. The Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Donorbox is not responsible for any delays, delivery failures, or other damage resulting from such problems.

2.2. Support Services; Availability. Subject to this Agreement, during the Term, as part of the Services, Donorbox shall use commercially reasonable efforts to make the Donorbox Platform available to Subscriber without significant interruption or material deviations from the applicable Documentation (each, an "Error"). If the Donorbox Platform experiences material Errors, which are not due to scheduled or intended downtime or as a result of events beyond Donorbox's control, then Donorbox shall use commercially reasonable efforts to restore the intended functionality (the "Support Services"). As part of the Support Services, Donorbox shall provide helpdesk support by email and/or telephone for basic questions related to the Donorbox Platform. In providing Support Services, Donorbox shall use efforts that are reasonable in light of the severity of the Error, and in accordance with Donorbox's then-current standard operating procedures.

2.3. Additional Support and Training. Other than the Support Services, Donorbox shall not provide any support or other services. Donorbox shall be available to offer reasonable additional support under separate, mutually agreeable terms and conditions. In addition, Donorbox is entitled to charge Subscriber, in accordance with Donorbox's (or its service providers') then-current pricing and other applicable policies, for provision of Support Services required due to: (i) problems, errors, or inquiries caused by Subscriber's or an Authorized User's actions or omissions, Subscriber Data, or Subscriber systems; and (ii) excessive requests for Support Services.

3. Grant of Rights to Subscriber.

3.1 Subscription License to Donorbox Platform.

- 3.1.1. Non-Exclusive Rights in the Donorbox Platform. Subject to this Agreement, Donorbox, under its Intellectual Property Rights, hereby grants to Subscriber during the Term, a limited, non-exclusive, non-transferable, and non-sublicensable subscription license to access and use the Donorbox Platform solely for Subscriber's internal purposes; provided that: (i) Subscriber's access shall be limited to cloud-based access to an instance of the Donorbox Platform that resides in object code form on servers controlled by Donorbox and that Donorbox makes available to Subscriber; (ii) the access shall be via an internet browser approved by Donorbox; and (iii) the Donorbox Platform shall in all respects be the current version generally made available by Donorbox to all end users.
- 3.1.2. Restrictions. Subscriber agrees that it shall not: (i) sell, rent, lease, sublicense, transfer, modify, create derivative works of, or redistribute the Donorbox Solution; (ii) except as expressly permitted pursuant to Section 3.1.1 (Non-Exclusive Right in the Donorbox Platform), otherwise use or exploit the Donorbox Solution; (iii) alter or remove any copyright, patent, trademark, or other protective notices included with the Donorbox Solution; (iv) reverse engineer, decompile, or disassemble the Donorbox Solution or otherwise attempt to derive any related source code; or (v) allow any party other than Authorized Users to access or otherwise use the Donorbox Solution (with or without Access Credentials).
- 3.1.3. Access Credentials. The term "Access Credentials" means any user name, password, security key, or other credential used to verify an individual's identity and authorization to access and use the Donorbox Platform by Authorized Users. Donorbox relies on Access Credentials to verify Authorized Users' identity in order to provide them with access to the Donorbox Platform. Accordingly, Subscriber agrees, and shall cause each Authorized User to agree, that: (i) Access Credentials shall not be shared with any party other than the specific individual Authorized User for whom such credentials were issued; (ii) immediately notify Donorbox and the Subscriber if the security, confidentiality, or integrity of Authorized Users' Access Credentials have been compromised; and (iii) Subscriber and each Authorized User are: (a) solely responsible for maintaining the confidentiality of the Access Credentials, and (b) as between Donorbox and Subscriber, Subscriber is solely liable for any use of the Donorbox Platform that occurs via the Access Credentials.

3.2. Non-Exclusive Rights in Documentation. Subject to this Agreement, Donorbox, under its Intellectual Property Rights, hereby grants to Subscriber during the Term, a limited, non-exclusive, non-transferable, and non-sublicensable license to access and use (but not modify) the Documentation solely in connection with its use of the Donorbox Solution.

3.3. Third Party Materials. The Donorbox Solution may incorporate, embed, or be bundled with software or components that are owned by third parties, including software or components that are subject to terms and conditions of third party licenses (collectively, the "Third Party Materials"). Subscriber's use of Third Party Materials, if any, is governed by the terms and conditions contained in the applicable third party's license agreement or other applicable agreement, a copy of which shall be provided upon Subscriber's request.

3.4. No Implied Rights. Nothing in this Agreement shall be construed as granting Subscriber any rights other than those expressly provided herein. Any rights granted to Subscriber under this Agreement must be expressly provided herein, and there shall be no implied rights pursuant to this Agreement, based on any course of conduct or other construction or interpretation thereof. All rights and licenses not expressly granted to Subscriber herein are expressly reserved by Donorbox.

4. Subscriber Grant of Rights to Donorbox.

4.1. License to Subscriber Data. Subject to this Agreement, Subscriber, under its Intellectual Property Rights, hereby grants to Donorbox, during the Term, a non-exclusive, non-sublicensable, non-transferable, limited license to use, display, publish, and reproduce Subscriber Data for purposes of performing its obligations under this Agreement.

4.2. Contributions. Subscriber, under its Intellectual Property Rights, hereby grants to Donorbox a non-exclusive, perpetual, worldwide, irrevocable, royalty-free, fully paid-up, sublicensable, and transferrable license to copy, use, modify, and otherwise exploit Subscriber's suggestions, recommendations, and ideas relating to the Donorbox Solution or Donorbox's business (collectively, the "Contributions") for any and all purposes and for as long as Donorbox sees fit. By way of clarification, and not limitation, Subscriber agrees that: (i) Subscriber has no expectation of review, compensation, or other consideration for Donorbox's use and exploitation of Contributions, and (ii) Donorbox is free to use and exploit the Contributions in Donorbox's sole discretion and without compensation or other obligation to Subscriber.

5. Ownership.

Other than those rights expressly granted to Subscriber under this Agreement, Donorbox, its subcontractors, its service providers, and its licensors (as the case may be), retain all right, title, and interest (including all Intellectual Property Rights embodied therein) in and to: (i) the Donorbox Solution and its components; (ii) Donorbox Confidential Information; and (iii) any modifications, enhancements, updates, and other improvements thereto. Subscriber shall not acquire any rights in the Donorbox Solution or other Donorbox Confidential Information by implication, course of conduct, or other means, apart from the express grant of rights provided in this Agreement. The Donorbox Solution is licensed or made available under a subscription license to Subscriber, and not sold.

6. Fees and Payment.

6.1. Fees. Subscriber shall pay Donorbox the fees associated with Subscriber's use of the Services, as detailed on the Proposal, and any other fees payable hereunder (collectively, the "Fees"). Unless expressly otherwise provided herein, all Fees are stated and payable in U.S. dollars, are nonrefundable, and shall be paid without right of setoff.

6.2. Invoices; Automatic Payments. At least or exactly thirty (30) days prior to the renewal date, as applicable, Subscriber shall receive a notification via HubSpot regarding the renewal date of the Services. On such renewal date, as applicable, all renewed Services amounts not disputed in good faith by Subscriber in a writing delivered to Donorbox thirty (30) days prior to the applicable renewal date shall be automatically processed by Donorbox for payment by Subscriber using the automatic payment instructions provided by Subscriber to Donorbox. Any undisputed invoiced amounts not timely paid shall accrue interest at a rate equal to the lesser of: (i) one and one-half percent (1.5%) per month, and (ii) the highest rate allowed by law (without 'usury' designation/authority).

6.3. Taxes. All Fees payable hereunder are exclusive of, and, as between the Parties, Subscriber is responsible for paying, any taxes assessed or imposed in connection with this Agreement (excluding taxes on Donorbox's income or property). Subscriber shall indemnify and hold Donorbox harmless from and against all claims and liabilities arising in connection with Subscriber's failure to report or pay any such taxes.

6.4. Pricing Changes. Donorbox reserves the right to modify the pricing at any time. Donorbox will notify Subscriber if a change in pricing takes place during the Term. Such notification may take place by, but is not required to take place by, the sending of an email to one or more administrators of Subscriber's account with Donorbox or by posting a message within Subscriber's Donorbox account. Any notice of pricing change shall be deemed given upon Donorbox's sending or posting of such notification.

7. Monitoring; Analytics.

Subscriber agrees that Donorbox may monitor and audit Subscriber's use of the Donorbox Solution to confirm Subscriber's compliance with this Agreement and for Donorbox's other business purposes, including analyzing and improving the Donorbox Solution. Donorbox shall be entitled to collect, generate from any dataset or source (including Subscriber Data), compile, analyze, and otherwise use (a) statistical data related to Subscriber's use of the Donorbox Solution, and (b) other data that qualifies as De-Identified Data (collectively, the "Donorbox Analytics") for any and all purposes and for as long as Donorbox sees fit. By way of clarification, and not limitation, Subscriber agrees that (i) Subscriber has no expectation of review, compensation, or other consideration for Donorbox's use and exploitation of Donorbox Analytics, and (ii) Donorbox is free to use and exploit the Donorbox Analytics in Donorbox's sole discretion and without compensation or other obligation to Subscriber. As between Donorbox and Subscriber, Donorbox shall own all right, title, and interest in and to the Donorbox Analytics.

8. Representations and Warranties.

8.1. Mutual Representations and Warranties. Each Party represents and warrants that: (i) it is duly organized, validly existing, and in good standing, and is qualified and/or licensed to do business in all jurisdictions to the extent necessary to carry out its obligations under this Agreement; (ii) its execution, delivery, and performance of this Agreement will not violate or constitute a default under any agreement by which such Party is bound, or under such Party's organizational documents; (iii) it has the full right, power, and authority to enter into and be bound by the terms and conditions of this Agreement and to perform its obligations under this Agreement; and (iv) this Agreement has been duly executed and delivered by such Party and constitutes a valid and binding agreement, enforceable in accordance with its terms.

perform its obligations under this Agreement; and (iv) this Agreement has been duly executed and delivered by such Party and constitutes a valid and binding agreement, enforceable in accordance with its terms.

8.2. Donorbox Representations and Warranties. Donorbox represents and warrants that: (i) the Donorbox Solution shall be, to its knowledge, free of viruses, worms, Trojan horses, or other similar malicious code; and (ii) Donorbox shall provide the Services in a professional and workmanlike manner, using qualified personnel.

8.3. Subscriber's Representations and Warranties. Subscriber represents and warrants that: (i) the Subscriber Data and Contributions do not and shall not infringe the Intellectual Property Rights, privacy rights, or other rights of a third party or violate any applicable laws, including applicable data privacy and protection laws; (ii) it owns, or has otherwise secured rights in, any personal information included in the Subscriber Data and has obtained all consents, approvals, and releases necessary to permit Donorbox to access, share, process, and otherwise use such personal information for all purposes contemplated by this Agreement; (iii) it shall not upload any virus or malicious code to the Donorbox Solution or otherwise use the Donorbox Solution to develop a virus or malicious code; and (iv) it shall comply with the Other Agreements.

8.4. Warranty Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8 (REPRESENTATIONS AND WARRANTIES), DONORBOX DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE DONORBOX SOLUTION AND OTHER DONORBOX CONFIDENTIAL INFORMATION, WHETHER EXPRESS OR IMPLIED. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8 (REPRESENTATIONS AND WARRANTIES), THE DONORBOX SOLUTION AND ALL DONORBOX PERFORMANCE OBLIGATIONS AND ALL PERFORMANCE OBLIGATIONS OF DONORBOX'S SUBCONTRACTORS, SERVICE PROVIDERS, AND LICENSORS ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. DONORBOX DOES NOT REPRESENT OR WARRANT THAT: (i) THE DONORBOX SOLUTION, OTHER DONORBOX CONFIDENTIAL INFORMATION, OR OTHER PERFORMANCE OBLIGATIONS WILL MEET SUBSCRIBER'S REQUIREMENTS OR RESULT IN ANY DESIRED OUTCOME, OR (ii) THE DONORBOX SOLUTION'S OPERATION OR DELIVERY WILL BE UNINTERRUPTED OR ERROR-FREE. TO THE FULLEST EXTENT PERMITTED BY LAW, DONORBOX HEREBY DISCLAIMS (FOR ITSELF, ITS SUBCONTRACTORS, SERVICE PROVIDERS, AND LICENSORS) ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE DONORBOX SOLUTION AND OTHER PERFORMANCE OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, ACCURACY, INTEGRATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

9. Limitations on Remedies.

9.1. Consequential Damages Waiver. IN NO EVENT SHALL DONORBOX BE LIABLE TO SUBSCRIBER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS OR OTHER ECONOMIC LOSS, EVEN IF DONORBOX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2. Limitation of Liability. IN NO EVENT SHALL DONORBOX'S TOTAL AGGREGATE LIABILITY TO SUBSCRIBER FOR ANY CLAIMS OR DAMAGES ARISING OUT OF THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY RECEIVED BY DONORBOX DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE ALLEGED BREACH.

9.3. Exceptions to Limitation of Liability. The exclusions and limitations set out in this Section 9 (Limitations of Remedies) do not apply to Donorbox's indemnity obligations under Section 10 (Indemnification) or liability for Donorbox's gross negligence or willful misconduct.

10. Indemnification.

10.1. Subscriber Indemnification. Subscriber shall defend, indemnify, and hold Donorbox and its affiliates and their respective officers, directors, employees, and agents harmless from and against any third party claim, action, suit, or proceeding resulting from: (i) any breach of Subscriber's obligations or the representations and warranties under this Agreement; (ii) Subscriber's use of the Donorbox Solution; (iii) Donorbox's use of the Subscriber Data and Contributions in compliance with this Agreement; and (iv) the actions of Authorized Users. Subscriber shall indemnify Donorbox for all losses, damages, liabilities, and all reasonable expenses and costs incurred by Donorbox in any such claim, action, suit or proceeding. Donorbox shall give Subscriber reasonable written notice of any claim, action, suit, or proceeding for which Donorbox is seeking indemnification.

10.2. Donorbox Indemnification. Donorbox shall defend, indemnify, and hold Subscriber and its affiliates and their respective officers, directors, employees, and agents harmless from and against any third party claim, action, suit, or proceeding resulting from assertions that the Donorbox Solution misappropriates or infringes the Intellectual Property Rights of a third party. Donorbox shall indemnify Subscriber for all losses, damages, liabilities, and all reasonable expenses and costs incurred by Subscriber in any such claim, action, suit or proceeding. Donorbox shall be entitled, at its option, to modify the Donorbox Solution or obtain licenses necessary to resolve such third party infringement claims, provided such modifications do not materially degrade the performance of the Donorbox Solution. If Donorbox determines that the foregoing is not commercially reasonable, then Donorbox shall be entitled to terminate this Agreement without further liability to Subscriber. The foregoing states the entire liability of Donorbox, and Subscriber's exclusive remedy, with respect to actual or alleged violation of third party Intellectual Property Rights by the Donorbox Solution.

10.3. Procedure for Indemnification. The party seeking indemnification shall give the indemnifying Party reasonable written notice of any claim, action, suit, or proceeding for which the indemnified Party is seeking indemnification; provided, however, that any failure to provide such notice shall not relieve the indemnifying Party of its obligations under this Section 10 (Indemnification) except to the extent that the indemnifying Party is materially prejudiced by such failure. In the event of a claim under this Section 10 (Indemnification), the indemnified Party shall: (i) grant control of the defense and settlement to the indemnifying Party; provided, however, that the indemnifying Party shall not enter into any settlement that admits fault or liability of the indemnified Party without the indemnified Party's prior written consent, and (ii) reasonably cooperate with the indemnifying Party at the indemnifying Party's expense. The indemnified Party shall be entitled to participate in any defense at its own expense with counsel of its own choosing.

11. Confidentiality.

Confidential Information under this Agreement shall consist of all non-public information disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party"), whether oral or in writing (including electronic transmission): (i) that is designated as "Confidential" or "Proprietary" by the Disclosing Party at the time of disclosure or within a reasonable period thereafter; (ii) that concerns the customers, finances, methods, research, processes, or procedures of the Disclosing Party; or (iii) that by the nature of the circumstances surrounding disclosure, or the information itself, should in good faith be treated as confidential (collectively, the "Confidential Information").

11.1 Non-Disclosure; Standard. The Receiving Party shall retain the Disclosing Party's Confidential Information in strict confidence and shall not use such Confidential Information except for purposes permitted under this Agreement. The Disclosing Party shall be entitled to disclose Confidential Information on a need-to-know basis to its employees, agents, and contractors, provided that the same are bound by non-disclosure and confidentiality obligations no less protective than those set out in this Agreement. The

Receiving Party shall use at least the same degree of care in safeguarding the Disclosing Party's Confidential Information as it uses in safeguarding its own confidential information, but shall not use less than reasonable care and diligence. Except to the extent that a Party retains ongoing rights, the Receiving Party shall return or destroy all Confidential Information of the Disclosing Party (including, but not limited to, all copies of the same) in its possession or control immediately upon the Disclosing Party's request.

11.2. Exceptions. The Receiving Party's obligations with respect to the Disclosing Party's Confidential Information shall not apply to Confidential Information that the Receiving Party can demonstrate: (i) is or becomes a matter of public knowledge through no fault of the Receiving Party; (ii) was or becomes available to the Receiving Party on a non-confidential basis from a third party, provided that such third party is not bound by an obligation of confidentiality to the Disclosing Party with respect to such Confidential Information; or (iii) was independently developed by the Receiving Party without reference to the Confidential Information. The Disclosing Party's obligations under Section 11.1 (Non-Disclosure; Standard) shall not apply to information that is required to be disclosed by law, provided that the Disclosing Party is promptly notified by the Receiving Party in order to provide the Disclosing Party an opportunity to seek a protective order or other relief.

12. Term and Termination.

12.1. Term. This Agreement shall take effect on the Effective Date and, unless terminated earlier in accordance with Section 12.2 (Termination), shall continue in force for the Initial Term, and, thereafter, automatically renew for additional renewal periods, as determined by the Subscriber's subscription and as detailed on the Proposal, from the end of the then-current term (each a "Renewal Term"), unless one Party notifies the other in writing no less than thirty (30) days prior to the expiration of the Initial Term or the then-current Renewal Term of its intent not to renew. The Initial Term and Renewal Terms are collectively referred to as the "Term".

12.2. Termination.

- 12.2.1. Termination for Convenience by Subscriber. Subscriber may terminate this Agreement by communicating intent of termination to either premiumsupport@donorbox.org or the Donorbox account executive in communications with Subscriber and following further instructions provided by Donorbox, if any. If such termination occurs within the first fourteen (14) days after the Effective Date, the termination shall be effective immediately, and Donorbox shall provide a full refund of the Fees paid for the then-current Term. If such termination occurs after the first fourteen (14) days after the Effective Date, the termination shall be effective at the end of the then-current Term, and, unless required by law, Subscriber shall not be entitled to obtain a refund of any portion of the Fees paid.
- 12.2.2. Termination for Convenience by Donorbox. Donorbox may terminate this Agreement or Subscriber's access to and use of the Services, at its sole discretion, at any time and without prior notice, without liability to Subscriber; provided that, with respect to such termination, Donorbox shall provide Subscriber with a pro-rated refund of any prepaid Fees for the period of the Term that extends beyond the effective date of such termination, unless Subscriber is in breach of this Agreement. Subscriber acknowledges and agrees that, in addition to Donorbox's other rights hereunder, Donorbox may, in its sole discretion, immediately suspend or disable Subscriber's right and ability to access and use the Donorbox Solution, without notice and without liability, if Donorbox reasonably believes that Subscriber has breached or failed to comply with any of the terms of this Agreement or for any other reason that Donorbox believes is causing risk, liability, loss, or damage to Donorbox, the Donorbox Solution, any other users of the Donorbox Solution, or any other third parties. In the event of a suspension of Subscriber's use of the Donorbox Solution, Subscriber shall promptly cooperate with Donorbox in attempting to resolve the applicable issue.

- 12.2.3. Termination for Cause; Suspension. Either Party shall be entitled to terminate this Agreement for material breach by the other, upon providing written notice to the other Party reasonably identifying the breach and a thirty (30) day (or, in the case of nonpayment, ten (10) day) period to cure, commencing on such Party's receipt of this notice (the "Cure Period"). In the event the Party in breach does not cure the breach within the Cure Period to the reasonable satisfaction of the non-breaching Party, this Agreement shall automatically terminate as of the last date of the Cure Period.
- 12.2.4. Insolvency. Either Party shall be entitled to terminate this Agreement immediately upon written notice, if the other Party makes any assignment for the benefit of creditors, or a receiver, trustee in bankruptcy or similar officer is appointed to take charge of any or all of the other Party's property, or the other Party seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding or such a proceeding is instituted against the other Party and is not dismissed within ninety (90) days, or the other Party becomes insolvent or, without a successor, dissolves, liquidates or otherwise fails to operate in the ordinary course.

12.3. Effect of Termination or Expiration.

- 12.3.1. Cessation of Use of Donorbox Solution; Certain Licenses. Upon termination or expiration of this Agreement, Subscriber's (including its Authorized Users') rights to access and use the Services shall immediately end and Donorbox shall have no further obligation to provide the Services to Subscriber. For the avoidance of doubt, except in the event of a suspension or termination of this Agreement by Donorbox in accordance with Section 12.2.3 (Termination for Cause; Suspension), Subscriber may retain its account with Donorbox and continue to use and access the standard features of the Donorbox Platform (the "Standard Services") under the Terms of Service (without access to any Services), which are available at <https://donorbox.org/terms>.
- 12.3.2. Destruction of Confidential Information. Unless otherwise expressly permitted under this Agreement, promptly after termination or expiration of this Agreement, each Party shall (i) either (a) return the other Party's tangible Confidential Information, or (b) permanently destroy or irretrievably delete such Confidential Information from storage media; provided, that the foregoing shall not require any deletion where doing so would require an extraordinary effort and such information is (1) archived in the ordinary course, or (2) otherwise not readily accessible; and (ii) destroy all information, records, and materials developed from the other Party's Confidential Information (collectively, the "Derived Information"). Notwithstanding the foregoing, Donorbox may retain copies of Subscriber Data or other Subscriber Confidential Information to the extent required to exercise its rights or remedies or to perform its obligations to Subscriber, such as to provide Subscriber with access to the Basic Tier Services, as applicable. Upon request, a Party shall certify in writing to the destruction of such Confidential Information and Derived Information. Notwithstanding the foregoing, Donorbox's rights to retain and use De-Identified Data and other Donorbox Analytics shall survive the termination of this Agreement.
- 12.3.3. No Effect on Prior Obligations. Any termination or expiration of this Agreement shall not affect any obligation which accrued prior to such termination or expiration, and Subscriber shall remit to Donorbox all amounts due and payable (including, if terminated for Subscriber's breach, any court costs, attorneys' fees, and out-of-pocket expenses incurred by Donorbox in connection with Subscriber's breach) within thirty (30) days after the effective date of termination or expiration.

13. General.

13.1. Governing Law; Exclusive Jurisdiction. Notwithstanding anything in this Agreement to the contrary, the laws of the State of Delaware shall govern the performance and construction of this Agreement and the interpretation of the Parties' rights and duties without reference to its conflict of laws principles. Any controversy arising out of or related to this Agreement may be submitted before any of the state or federal courts located in the State of Delaware, to whose personal jurisdiction and venue each Party hereby irrevocably submits.

13.2. Assignment. This Agreement is not assignable by Subscriber without Donorbox's prior written consent. Donorbox reserves the right to assign the rights and obligations under this Agreement for any reason and in Donorbox's sole discretion. The Parties' rights, duties, and obligations shall bind and inure to the benefit of their respective successors and permitted assigns.

13.3. Force Majeure. Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations due to any other cause which is beyond its reasonable control, including, by way of example, strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, terrorism, war, governmental action, earthquakes, pandemics and other public health emergencies.

13.4. Independent Contractors. The Parties are independent contractors, and no agency, partnership, joint venture, or employer-employee relationship is intended or created by this Agreement. Neither Party shall have the power to obligate or bind the other Party.

13.5. Severability; Waiver; Headings. Any provision of this Agreement determined to be unenforceable or invalid by applicable law or court decision shall not render this Agreement unenforceable or invalid as a whole and, in such event, such provision shall be changed and interpreted so as to best accomplish its objectives within the limits of applicable law or court decision. A Party's failure to require the other Party's performance of any obligation herein shall not affect the full right to require such performance at any time thereafter. A Party's waiver of the other Party's breach of any obligation under this Agreement shall not be taken or held to be a waiver of the obligation itself or of any past or subsequent breaches of the same obligation. Headings used in this Agreement are for reference purposes only and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.

13.6. Entire Agreement. This Agreement and the Other Agreements (which are incorporated into this Agreement for all purposes) set forth the entire understanding and agreement of the Parties and supersede any and all oral or written agreements or understandings between the Parties as to the subject matter of this Agreement. In the event of a conflict or inconsistency between this Agreement and the Other Agreements, this Agreement shall control and such conflict or inconsistency shall be resolved in favor of this Agreement. Neither Party is relying on any warranties, representations, assurances, or inducements not expressly set forth herein. This Agreement may be changed only by a writing signed by both Parties.

13.7. Survival. In addition to any other right or obligation that by its nature is intended to survive any termination or expiration, the following Sections shall survive any termination or expiration of this Agreement: (i) Section 3.4 (No Implied Rights); (ii) Section 4.2 (Contributions); (iii) Section 5 (Ownership); (iv) Section 7 (Monitoring; Analytics); (v) Section 8.3 (Subscriber's Representations and Warranties); (vi) Section 8.4 (Warranty Disclaimer); (vii) Section 9 (Limitations on Remedies); (viii) Section 10.1 (Subscriber Indemnification); (ix) Section 11 (Confidentiality); (x) Section 12.3 (Effect of Termination or Expiration); and (xi) Section 13 (General).

13.8. Notice. Except as otherwise provided in this Agreement, any notices required or permitted herein shall be given to the appropriate Party at the email address specified on the HubSpot proposal order form or above or at such other address as the Party specifies in writing. Such notice shall be deemed given: (i) upon personal delivery; (ii) if sent by facsimile or electronic mail, upon confirmation of receipt; or (iii) if sent by certified or registered mail, postage prepaid, five (5) days after the date of mailing.

13.9. Remedies. Except as expressly stated herein, no remedy conferred by any of the provisions of this Agreement is intended to be exclusive of any other remedy, and each remedy is cumulative and in addition to every other remedy available to a Party hereunder or otherwise existing at law, in equity, by statute, or otherwise. The election of any one or more remedies by either Party shall not constitute a waiver of the right to pursue any other available remedies.
