

# KINSTA INC. AFFILIATE PROGRAM TERMS AND CONDITIONS

If you have any questions after reading these terms and conditions please send an email to [affiliates@kinsta.com](mailto:affiliates@kinsta.com).

This is a legal agreement ("Agreement") between the affiliate program participant ("the Affiliate") that registered for and is the recipient of benefits of participation in the Kinsta Affiliate Program ("the Program"); and Kinsta Inc. ("the Company", "Kinsta"), the legal owner of the trademark and of the domain and website Kinsta.com ("the Website"). Collectively referred to as the "the Parties".

The Program allows the Affiliate to promote Kinsta's services and receive commissions according to the terms below. The Affiliate's agreement to be bound by these terms is acknowledged by the Affiliate's application to and participation in the Program.

Please read this Agreement carefully. By applying to participate in the Program you are agreeing to the terms of this Agreement. You are also agreeing to our Terms of Service (<https://kinsta.com/legal/terms-service/>) and Privacy Policy (<https://kinsta.com/legal/privacy-policy/>).

## Good Standing

It is in Kinsta's interest to develop and maintain a mutually beneficial relationship with the Affiliate. Therefore, it is Kinsta's intent to treat the Affiliate fairly and transparently.

These affiliate terms provide guidance to both Kinsta and the Affiliate in the governance of their relationship. However, circumstances will arise that are beyond the scope of what Kinsta is able to reasonably anticipate and address in these terms. Therefore, Kinsta retains the authority to determine if the Affiliate is in good standing at their sole discretion.

### **Commissions shall only be paid to Affiliates who are in good standing.**

If Kinsta determines that the Affiliate has lost good standing the Affiliate will be notified of the decision. At Kinsta's sole discretion, the Affiliate may be offered the opportunity to regain good standing. However, Kinsta reserves the right to terminate the Affiliate's account at any time resulting in the forfeiture of all unpaid commissions should Kinsta determine, at their sole discretion, for any reason or no reason, that the Affiliate is no longer in good standing.

## Application to the Affiliate Program

Kinsta reserves the right to approve or deny any application for membership in the Program to anyone, at anytime, for any reason or no reason.

Applications may be rejected if we determine that an applicant is unsuitable for the Program for any reason, including, but not limited to any previous history of the applicant of not complying with the Program's Terms and Conditions, if the applicant's website or activity can be related to any unlawful, defamatory, obscene, harassing or otherwise objectionable activity, such as facilitating illegal activity, promoting violence, promoting or assisting others in copyright infringement, participating in sending unsolicited email, etc.

## Affiliate Code of Conduct

Compliance with the following code of conduct is mandatory for participation in the Program. Failure to abide by these requirements shall be grounds for immediate suspension or termination of the Affiliate's account and forfeiture of all unpaid commissions, as decided at Kinsta's sole discretion. □

1. The Affiliate is responsible for providing full and accurate information upon registration for the Program and keeping that information up to date at all times in their affiliate account. Such information includes, but is not limited to: contact details including a valid e-mail address, website URL(s) where Kinsta will be promoted, promotional practices and means, payment details, etc.
2. Kinsta reserves the right to contact the Affiliate and request additional data regarding all the websites where the Affiliate promotes the Company and the promotional practices used by the Affiliate. The Affiliate is required to provide truthful and detailed information to Kinsta upon request. □
3. The Affiliate should act in good faith in his Affiliate practices and refer customers in good standing. Customers in good standing are hosting account owners who have provided valid contact information and are not flagged for high fraud risk; and meet the requirements set in Kinsta's Terms of Service (<https://kinsta.com/legal/terms-service/>).
4. The Affiliate is allowed to use Kinsta's product information, including prices and hosting plan details, on their website. However, the Affiliate is responsible for keeping the information up-to-date as Kinsta will change product pricing and plan details from time to time at their sole discretion. □
5. The Affiliate should not engage in incentivized programs, business-opportunity sites, post any link to Kinsta (whether a referral link or not) on a coupon site, or use any marketing practices that might be unethical. □
6. The Affiliate shall not use, or encourage their referrals to use, copyrighted or third-party material on any websites hosted by Kinsta, without the original author's consent. □

7. The Affiliate will be solely responsible for the development, operation and maintenance of its own Website and for all materials that appear on its Websites. The Affiliate hereby represents and warrants to the Company that materials posted on any site the Affiliate is using to generate referrals under this program do not violate or infringe upon the rights of any third party (including, for example, copyrights, patents, trademarks, privacy, or other personal or proprietary rights), and that materials posted on the Affiliate's Website are not libelous or otherwise illegal. The Affiliate acknowledges that (i) Kinsta is not aware of the contents of the Affiliate Website and (ii) Kinsta expressly excludes any liability for the contents of an Affiliate's website. However, Kinsta expressly reserves the right to remove or disable access to any Affiliate's website hosted by Kinsta in the event that Kinsta becomes aware of any illegal activity or any other breach of Kinsta's Terms of Service connected to the Affiliate's website. □
8. The Affiliate should only use advertising materials promoting Kinsta that are approved by Kinsta. Any material that is not provided officially by Kinsta is deemed unapproved. Upon request by Kinsta, the Affiliate will modify their use of advertising materials to comply with these terms. Logos, trademarked items or text content that is not provided to the Affiliate cannot be used without prior written permission. □
9. The Affiliate shall not refer themselves in any fashion. This includes referral of any operation or website in which the Affiliate has a controlling interest. Any referral where payment is made utilizing a form of payment controlled by or belonging to the Affiliate shall be considered a violation of these terms. □
10. The Affiliate shall portray Kinsta and Kinsta's products and services accurately and shall not misrepresent Kinsta in any fashion. This includes, but is not limited to, misleading customers as to the nature of Kinsta's products and services, providing non-existent discounts, and falsely stating plan or other information.
11. In accordance with applicable law, the Affiliate must disclose that they're in an affiliate relationship with Kinsta. The Affiliate shall not conceal their relationship with Kinsta, thereby obscuring the Affiliates participation in this Program; nor shall the Affiliate misrepresent their relationship with Kinsta by presenting themselves as Kinsta, or as a partner, employee, or otherwise official representative of Kinsta. □
12. Affiliate websites must NOT contain lewd, obscene, illegal or pornographic material, or any other material that is deemed to be objectionable. This includes, but is not limited to: bigotry, hatred, pornography, satanic materials, trademark and copyright materials, and all content of an adult nature. The designation of any materials as such described above is left entirely to Kinsta's discretion. □
13. The Affiliate shall not engage in any of the inappropriate advertising methods described in these terms.

## **Inappropriate Advertising**

The Company requires that the Affiliate abide by the highest standards of professionalism. For this reason, the Affiliate shall not engage in any form of inappropriate or unethical advertising.

The Company has the sole right to decide whether a promotion method used by the Affiliate is appropriate or inappropriate.

Inappropriate forms of advertising include, but are not limited to:□

1. Using any illegal or spam method of advertising like unsolicited email, unauthorized placing of referral links in forums, comments, newsgroups, message boards, social media sites, etc. Kinsta will not tolerate any form of spam or unsolicited email.□
2. Competing with Kinsta's advertising efforts. From time to time Kinsta may opt to engage in online advertising. The Affiliate shall not compete with Kinsta in any form by placing advertisements targeting Kinsta's trademarks and service marks or place advertisements that in any way advertise or display Kinsta's trademarks or service marks. This means that the Affiliate shall not bid (in regards to online advertising, including but not limited to Pay per Click or Pay per Impression campaigns) on any keywords or phrases containing Kinsta trademarks, service marks, registered trademarks, or registered URLs, or on any variations, abbreviations, or misspellings of the same. This also means that the Affiliate shall not display Kinsta.com or Kinsta's trademarked name or any variation, abbreviation, or misspelling of the same in any URL that is displayed as part of an advertisement or in the written or visual portion of any advertisement.□
3. Referring traffic to Kinsta through any pay to read, pay to click, banner exchanges, click exchanges, PPC advertising, pop-up/under, or similar methods. Referrals to the Website must be made from the Affiliate's website(s).□
4. Providing cash backs, rewards, or any other kind of incentives without prior approval of Kinsta.□
5. Using Kinsta's advertising materials, trademark, or name in a way that is detrimental to Kinsta's image, as determined at Kinsta's sole discretion.□
6. Using iframes or any other techniques or technology to add the Affiliates tracking cookie to a referral by any means other than an actual click-through.□
7. Using link cloaking, or masking techniques or technology, with the goal of promoting Kinsta on websites and/or networks not explicitly mentioned in the Affiliate profile.□
8. The Affiliate's domain name(s), social media profiles, or any other online or offline presence must NOT contain keywords and phrases containing the Kinsta's trademark or any other variations or misspellings confusingly similar to Kinsta's trademark, name, or domain name.□
9. The Affiliate may not place any links to Kinsta or refer to Kinsta in any way on coupon websites.

## **Currency**

The currency used throughout these terms and within the affiliate system is the United States Dollar (USD). All amounts are calculated and paid to the Affiliate in USD.

## Errors and Omissions

If an error or omission is discovered Kinsta shall rectify the issue as soon as practically possible following the discovery of the error or omission. This includes, but is not limited to, errors or omissions that result in a failure to properly track referrals or a failure to properly calculate, approve, and pay Affiliate commissions.

## Tracking Cookies

The tracking of Affiliate sales is automatically performed by the use of cookies. The cookies are placed in the browser of the person that has clicked on the Affiliate's referral link and has thus reached the Website.

The cookie is stored for 60 days. If there is a previous affiliate cookie in the same browser it will not be overwritten by the newer one. A new affiliate cookie shall only be set after the 60 day period has passed, the initial cookie has expired, and the referred user visits the Website again by clicking on a valid referral link.

**Commissions shall not be shared between Affiliates.** Commissions shall only be paid to the Affiliate whose referral cookie is active at the time of purchase.

The Company bears no responsibility if the customer has deleted their browser cookies either intentionally or unintentionally. No Affiliate commission will be paid for tracking errors of any kind, including, without limitation, any tracking errors caused by Affiliate's editing, masking or tampering with links.

## Referrals & Referred Customers

A **referral** occurs when a potential customer reaches the Website by clicking on the Affiliate's **referral link**. If a referral signs up for a non-free hosting plan during the time when the cookie is valid the referral becomes a **referred customer**.

A referred customer becomes **active** when payment is made for a non-free hosting plan and the **referral activation date** is set at the time when the referred customer becomes active.

A referred customer becomes **inactive** when they are no longer subscribed to at least one non-free hosting plan. Inactive referred customers are reactivated (become active) if they subscribe to a non-free hosting plan provided that they have not been permanently removed from the Affiliate's account due to a period of prolonged inactivity.

The referral activation date may be reset depending on the duration of inactivity:

- If an inactive referred customer is **reactivated after LESS than 48 hours of inactivity** there is no impact on the referral activation date. □
- If the inactive referred customer is **reactivated after MORE than 48 hours of inactivity** the referral activation date shall be reset to the time when the referred customer's period of inactivity ends.

Inactive referred customers shall be permanently removed from the Affiliate's account after a period of prolonged inactivity. The duration of the period resulting in permanent removal varies depending on the commissions previously generated by the referred customer.

- **Referred customers who HAVE NOT generated the one-time commission** described in these terms shall be permanently removed from the Affiliate's account if they become inactive and remain continuously inactive for more than 30 days. □
- **Referred customers who HAVE generated the one-time commission** shall be permanently removed from the Affiliate's account if they become inactive and remain continuously inactive for more than 60 days.

## Accrual of Referred Customers to the Affiliate

Referred customers and the corresponding commissions shall accrue to the Affiliates account for sales made by Kinsta and referred by the Affiliate, which correspond to these criteria: □

1. The sale was made as a result of the active referring efforts of the Affiliate. Kinsta accepts this as true if the referred customer has an active cookie indicating that the Affiliate has referred the customer to the Website. □
2. The referred customer has never previously been a customer of Kinsta. □
3. The Affiliate's account is active at the time that the referred customer makes a purchase. No commission is due for sales that were made before application to the Program, before approval of the Affiliate's application, or following suspension or termination of the Affiliate's account.

Kinsta reserves the right to deem any sale invalid upon its own discretion without being liable for further explanation and justification.

## Commission Status

Commissions can be classified as being in one of three states:

1. **Approved commissions** are those which have been approved for payment but which have not yet been paid to the Affiliate. □
2. **Paid commissions** are any commissions which have been approved and subsequently paid to the Affiliate. □

3. **Forfeited commissions** are any commissions which Kinsta has determined shall not be paid to the Affiliate due to a violation of these terms or a loss of good standing.

## **Basis for Calculation of Commissions**

When payment for a non-free hosting plan subscription is received by Kinsta from a referred customer the income associated with the payment is prorated across the entire time period covered by the subscription. Income is then realized as the time covered by the subscription passes.

For example, if a \$300 payment is received from a referred customer and the associated hosting plan covers 30 days, the prorated income value for any 24 hour period during the 30 days covered by the hosting plan would be \$10.

All hosting plan durations are calculated down to the second and the associated income and resulting commissions are calculated to the second. This ensures that the Affiliate receives commissions for each second during which a subscription is active.

Commissions shall only be calculated based on income received for hosting plan subscriptions. If the customer has received a discount, the commission is calculated from the discounted price. One-time fees, overage fees, and add-on subscriptions shall not be considered in the calculation of commissions.

The Company charges VAT (Value-Added Tax) for sales to EU residents and EU based companies. In addition, the Company may collect other taxes in the future. The Affiliate expressly agrees that commission is paid based on the price paid by the customer exclusive of VAT or any other tax or fee.

The commission rate and one-time commission schedule is subject to change without prior notification at any time or from time to time, in the Company's sole and absolute discretion. The Affiliate will be notified of any change in the commission rate.

## **Approval of Commissions**

Once a commission has been calculated and credited to an Affiliate's account it is an approved commission and it will be paid to the Affiliate even if the referred customer subsequently becomes inactive. Approved commissions shall only be forfeited as described in the "**Forfeited commissions**" statement in the portion of these terms defining Commission Status.

## **One-Time Commissions**

One-time commissions shall be calculated and approved once for each referred customer. In order to generate the one-time commission, the following criteria must be met:

1. The Affiliate must be in good standing. □
2. The referred customer must not be delinquent. □
3. The referred customer must have been active (subscribed to at least one non-free hosting plan) for a period of more than 2 months, as determined by measuring the passage of time starting from the referral activation date. This time period is referred to as the **one-time commission qualification period**.

Once these criteria have been met the one-time commission shall be calculated, approved, and shall appear in the Affiliate's account.

One-time commissions shall be calculated according to the following schedule based on the total income received from the referred customer during the **one-time commission qualification period**:

Income received	One-time commission
Less than \$50	\$0
\$50 - \$99.99	\$50
\$100 - \$165.99	\$100
\$166 - \$999.99	\$150
\$1,000 or higher	\$500

The following table illustrates the one-time commission that would be calculated for a referred customer based on each standard hosting plan subscription level assuming that all criteria are met, plans are not upgraded or downgraded, and there are no additional discounts added.

Please note that this table is provided to illustrate the typical calculation of one-time commissions. In practice, one-time commissions shall be determined based on the schedule above.

Hosting plan	Typical one-time commission
Starter	\$50
Pro	\$100
Business 1	\$150



Business 2	\$150
Business 3	\$150
Business 4	\$150
Enterprise 1	\$500
Enterprise 2	\$500
Above Enterprise 2	\$500

## Recurring Commissions

A 10% recurring commission shall be calculated and approved when the following conditions are met:

1. The Affiliate is in good standing.
2. The referred customer has generated any income through a hosting plan subscription and that income was not already included in the calculation of any previously approved commissions.
3. The referred customer is not delinquent.
4. The one-time commission has been approved.
5. At least 30 days have passed since the approval of any prior commissions.

The first recurring commission is approved approximately 30 days after approval of the one-time commission. This process is repeated approximately every 30 days until the referred customer becomes inactive.

Recurring commission shall be calculated and approved up until the point in time when the referred customer becomes inactive.

You can find example calculations in our knowledge base article on recurring commissions: <https://kinsta.com/knowledgebase/recurring-commissions/>

### Actual Calculations are Based on Seconds

In the examples above we have calculated commissions based on days to simplify the calculations. In practice, commissions shall be calculated on the basis of seconds.

## Affiliate Commission Payment

1. Kinsta issues commission payments at most once a month.□
2. Approved commissions are considered to be due 1 month after approval and shall be paid within 1 month after coming due. As a result, the time from approval of a commission to its payment shall not exceed 2 months.□
3. Subscriptions where no income is realized for any reason, including but not limited to credit card fraud, bad debts, cancellations, chargebacks, and credits for returned hosting services, are not eligible for a commission.□
4. The commission base and rate is subject to change at any time or from time to time, at the Company's sole and absolute discretion.□
5. Commission payments are made via PayPal. At Kinsta's sole discretion, other payment methods may be used if agreed upon by both Kinsta and the Affiliate. Kinsta is not responsible for any transaction fees charged by PayPal or any other payment provider. Kinsta shall pay the exact amount of commission due to the affiliate.□
6. **Payment shall be only be made if the balance of all approved commissions due is more than \$50.** If the balance of commissions due is less than \$50 the balance shall remain in the Affiliate's account until the next payment cycle in which the balance of commissions due exceeds \$50. □
7. The Company is not responsible for lost, stolen or misdirected affiliate commission payments.□
8. You agree that you are solely responsible for all tax obligations due to all taxing authorities arising from or in connection with your participation in our Affiliate Program. The Company shall not withhold any taxes of any kind from commission payments.

## Fraud policy

As referred customers sign up for services, Kinsta takes steps to minimize the risk of fraud. Despite these measures, in some cases fraud does occur.

Affiliates found to have **knowingly** referred fraudulent customers shall be removed from the Program immediately and all commissions earned by the Affiliate shall be forfeited.

Fraudulent customers referred **without the Affiliate's knowledge** of the referred customer's fraudulent activity shall not be cause for removal of the Affiliate from the Program. However, future commission payments to the Affiliate shall be adjusted to reflect the income lost due to fraud committed by the referred customer.

Should Kinsta identify a pattern or unusually high frequency of fraudulent activity committed by an Affiliate's referred customers, Kinsta will take appropriate action such as advising the Affiliate to modify practices which are attracting fraudulent customers or terminating the Affiliate's membership in the Program.

If fraud is detected and Kinsta returns funds to the victim of said fraud, commissions payable to the Affiliate shall be recalculated retroactively. Affiliates shall not be required to return commissions, but commissions associated with fraudulent activity will be deducted from approved commissions to be paid in the future. For example: □

- A customer signs up for a Business 2 plan. After approximately 2 months the one-time commission of \$150 is approved and subsequently paid to the Affiliate. Approximately 30 days later the first recurring commission of \$20 is approved and subsequently paid to the Affiliate.
- Shortly after payment of the first recurring commission Kinsta is notified that the referred customer has committed fraud and Kinsta refunds all fees to the card owner who was the victim of fraud. □
- The total commission paid to the Affiliate for the fraudulent referred customer was \$170. Therefore, \$170 is deducted from the Affiliate's balance of unpaid commissions. □
- The Affiliate has referred two other customers. However, neither has had the one-time commission approved or paid. Therefore, the Affiliate has a negative unpaid commission balance of -\$170. This balance is not due. However, Kinsta will only pay future commissions to the Affiliate once the balance of unpaid commissions exceeds \$50. □
- Approximately 10 days later, the one-time commission of \$150 for one of the two subscriptions is approved. The Affiliate's unpaid commission balance is now -\$20. □
- A few days later the one-time commission of \$150 for the second subscription is approved. The Affiliate's unpaid commission balance is now \$130 which would be paid to the Affiliate according to these terms.

## Coupons

From time to time the Company may elect to offer the Affiliate coupons to use when promoting the Company. The Affiliate is only authorized to use coupons which have been assigned specifically to the Affiliate. In addition, the Affiliate shall not place any coupon offered by Kinsta on any coupon website. Coupons are intended to be used by the Affiliate exclusively on their website(s) or in their legitimate marketing communications.

## Termination of the Affiliate Program

The Company reserves the right to withdraw the Program at any time. At which point the Program shall cease to apply for all new referred customer hosting plan subscriptions started thereafter.

All active referred customer hosting plan subscriptions existing at the time the Program is withdrawn shall continue to attract commission in accordance with these rules provided the Affiliate's account remains active. However, no new referred customers introduced after withdrawal of the Program shall attract commissions for the Affiliate.

## **Termination of an Affiliate Account**

This Agreement will end when terminated by either party. Kinsta can terminate any Affiliate account immediately without explanation and no prior notice:

1. In the event that Kinsta terminates the Program or the Affiliate loses good standing irrevocably as determined at Kinsta's sole discretion. □
2. If any court or government body or public authority orders Kinsta to delete certain contents from the Website (such as, but not limited to, the Program). □
3. If the Affiliate does not comply with the Affiliate program terms, or the Company's Terms of Service and Privacy Policy. In such case all commissions earned by the Affiliate shall be forfeited. □
4. If the Affiliate has not generated any sales to the company for a period longer than 6 months.

Kinsta may, but will not be obligated to, suspend an Affiliate account prior to terminating the Affiliate account while investigating the occurrence of one of the above reasons for termination.

Any commissions already approved at the time of termination shall be paid to the Affiliate in accordance with these terms provided the Affiliate remains in good standing. □

Following termination of an Affiliate account the Company will no longer track the sales associated with the Affiliate and no commissions shall be prescribed to the Affiliate for any future referrals.

Upon termination the Affiliate may no longer use the Company's marks, banners, images, content, trademarks, or any software considered as Kinsta's intellectual property etc., on their site.

## **Relationship of Parties**

The Parties under this Agreement are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency franchise, sales representative, or employment relationship between the Parties. The Affiliate has no authority to make or accept any offers or representations on the Company's behalf. The Affiliate cannot make any statement, whether on the Affiliate web site or otherwise, that reasonably would contradict anything in this section.

## **Limitation of Liability**

UNDER NO CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, SHALL THE COMPANY BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR

PROFIT, ARISING OUT OF THIS AGREEMENT, EVEN IF THE COMPANY OR A COMPANY AUTHORIZED REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE COMPANY BE LIABLE ON ANY THEORY OF LIABILITY, WHETHER IN AN EQUITABLE, LEGAL, OR COMMON LAW ACTION ARISING HEREUNDER FOR CONTRACT, STRICT LIABILITY, INDEMNITY, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, FOR DAMAGES WHICH, IN THE AGGREGATE, EXCEED THE COMMISSIONS PAYABLE TO THE AFFILIATE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.□

The foregoing limitation of liability shall apply regardless of the cause of action under which such damages are sought.

Nothing in these Terms entitle an Affiliate to infringe Kinsta's intellectual property rights connected to the Website or to the Kinsta system. The Affiliate remains fully liable for any such infringement.

## **Disclaimers**

The Company makes no representation that the operation of the Website will be uninterrupted or error-free, and the Company will not be liable for the consequences of any interruptions or errors.

## **Affiliate Program Terms Revisions**

The Company reserves the right to change the terms of the Program at any time. Such changes will become effective and binding after their posting on the Website. The Affiliate agrees to regularly review the Affiliate program terms and conditions and be aware of the changes made. By continuing to participate in the Affiliate program after a revision has been posted, the Affiliate agrees to abide by the revised terms.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT WE MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEB SITES THAT ARE SIMILAR TO OR COMPETITIVE WITH YOUR WEBSITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE AFFILIATE PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

## **Notices**

All communications under these rules must be in writing by e-mail to the e-mail contact address provided by the party to be served. Such notices shall be deemed duly served and received on

the day of transmission if sent on a weekday between 9am and 5pm GMT, provided no "not delivered" or similar response is received, otherwise notices sent by e-mail outside these days/times shall be deemed served on the next succeeding weekday.

## **Confidentiality**

The Company may disclose certain information to the Affiliate as a result of the Affiliate's participation in the Program, which information the Company considers to be confidential (herein referred to as "Confidential Information"). For purposes of this Agreement, the term "Confidential Information" shall include, but not be limited to:

- Any modifications to the terms and provisions of this Agreement made specifically for the Affiliate and not generally available to other members of the Affiliate Program. □
- Website, business, and financial information relating to the Company. □
- Customer and vendor lists relating to the Company. □
- Pricing and sales information for the Company and any members of the Affiliate Program, other than the Affiliate.

Confidential Information shall also include any information that the Company designates as confidential during the term of this Agreement. □ □ The Affiliate agrees to not disclose any Confidential Information and that such Confidential Information shall remain strictly confidential and secret and shall not be utilized, directly or indirectly, by the Affiliate for the Affiliate's own business purposes or for any other purpose except and solely to the extent that any such information is generally known or available to the public or if same is required by law or legal process.

Further, the Affiliate agrees to maintain the security of Confidential Information by utilizing at least the same level of care as the Affiliate uses to protect their own Confidential Information. All employees or agents acting on the Affiliate's behalf must be informed of the confidential nature of the information and are required to maintain such confidentiality. Such information may only be disclosed to professional advisors under a duty of confidentiality, regulatory authorities requiring access, or as otherwise required by law. Where possible, the Affiliate shall inform the Company if such disclosure is required by law in advance of such disclosure or if not permitted, as soon as possible thereafter.

The Company makes no warranty, expressed or implied, with respect to any information delivered hereunder, including implied warranties of merchantability, fitness for a particular purpose or non-infringement, or any other warranties, whether arising by law, custom or conduct, or as to the accuracy or completeness of the information, and the Company shall not have any liability to the Affiliate or to any other person resulting from the Affiliate's use of the information.

## **Privacy Policy**

The Company's Privacy Policy (<https://kinsta.com/privacy-policy/>) is incorporated herein by reference and governs all collection, storage and usage of personal data. By accepting the terms and conditions in this section, the Affiliate expressly consents to the use and disclosure of his/her personally identifiable and other information as described in the Privacy Policy.

## **Affiliate Responsibilities Under GDPR**

The Affiliate, while processing any personal data during its operations, shall take all measures required pursuant to Article 32 (Security of processing) of the General Data Protection Regulation of the European Union ("GDPR") in order to protect the security and confidentiality of the Client Personal Data processed by it, namely: taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. The Affiliate must implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk.

## **Governing law**

These rules shall be governed by and construed in accordance with the laws of England and Wales and both parties hereby submit to the non-exclusive jurisdiction of these courts.