

## HiBnb Affiliate Program Terms and Conditions

This Agreement, made between 2749103 Ontario Ltd. cob HiBnb and Affiliate (as defined below) (each, a **“Party”** and, collectively, the **“Parties”**) sets forth the terms and conditions applicable to the affiliate program (**“Affiliate Program”**) of HiBnb, whereby Affiliate can earn a share of revenues received by HiBnb from Users referred to the Website by Affiliate.

Affiliate acknowledges and agrees that HiBnb may amend this Agreement at any time by posting the relevant amended and restated Affiliate Program Terms and Conditions on the Website and such amendments will be effective as of the date of posting. Affiliate’s continued participation after the amended Affiliate Program Terms and Conditions is posted to the Website constitutes Affiliate’s agreement to, and acceptance of, the amended terms. If Affiliate does not agree to any changes, Affiliate must terminate its participation in the HiBnb Affiliate Program.

### Definitions

Unless otherwise defined herein, capitalized terms set out in this Agreement shall have the meanings ascribed thereto in HiBnb’s [Terms of Use](#)

**“Affiliate”** or **“You”** means an individual that has agreed to the terms of this Agreement, has established a HiBnb account in accordance with the Terms of Use, and has registered with HiBnb for participation in HiBnb’s Affiliate Program.

**“HiBnb Trademarks”** means the trademarks, logos, service marks and trade names of HiBnb, whether registered or unregistered, including but not limited to the word mark **HiBnb** and its related logo design.

**“Referral Code”** means the unique code provided to Affiliate by HiBnb upon registration as an Affiliate.

**“Referred User”** means a new and unique User that entered Affiliate’s Referral Code at the time of registration.

**“Revenue”** means the gross revenue, net of any goods and services or sales taxes, actually received by HiBnb from Referred Users in respect of Referred Users’ use of the Website.

**“Taxes”** means all taxes, federal, provincial, state, local or other governmental sales, value added, goods and services, harmonized or other taxes, fees or charges now in force or enacted in the future.

**“User”** means an individual who has registered with HiBnb as a Host and/or Guest in accordance with the Terms of Use.

**“Website”** means the HiBnb website located at [www.hibnb.us](http://www.hibnb.us), and any associated websites, products or services offered by HiBnb.

### Affiliate Qualifications

To qualify for HiBnb’s Affiliate Program, in addition to any other qualifications set out here, you must be an individual, and you must be old enough to legally possess and consume non-medical

cannabis in your jurisdiction of residence. Affiliate must not participate in any other referral program offered by HiBnb while they participate in the Affiliate Program.

To become an Affiliate, you must provide all information required by HiBnb. HiBnb may reject an Affiliate application for any reason, in its sole discretion. Affiliate acknowledges that HiBnb will use the email address provided by Affiliate as the primary method for communication. Affiliate also agrees to abide by the Terms of Use at all times.

Affiliate acknowledges and agrees that Affiliate's participation in the HiBnb Affiliate Program, is governed by the HiBnb Privacy Policy found at <https://www.hibnb.us/privacy-policy-us/>

### **Affiliate Marketing Activities**

Affiliate shall bear all costs and expenses related to Affiliate's marketing or promotion of the Website ("**Affiliate Marketing Activities**") in any jurisdiction.

In conducting all Affiliate Marketing Activities, Affiliate will comply with all directives of HiBnb, as well as all applicable laws, rules and regulations, including but not limited to those relating to email marketing and 'spamming' as well as promotional restrictions contained within the *Cannabis Act*, S.C. 2018, c. 16. Affiliate will not state or imply that any promotions, emails or other communications are being made or sent by or on behalf of HiBnb.

Affiliate will not:

(a) use malware, spyware or any other aggressive advertising or marketing methods in any of its activities relating to HiBnb;

(b) make any false, misleading or disparaging representations or statements with respect to HiBnb or the Website;

(c) solicit Users to leave the Website;

(d) copy, resemble or mirror the look and feel of the Website or HiBnb Trademarks or otherwise misrepresent Affiliate's affiliation with HiBnb; or

(e) engage in any other practices which may adversely affect the credibility or reputation of HiBnb, including but not limited to, having content on any website, that promotes sexually explicit materials, violence, discrimination based on race, sex, religion, nationality, disability, sexual orientation or age, or any illegal or objectionable activities, or violates any intellectual property or other proprietary rights of any third party.

### **Fees and Payments**

Subject to Affiliate's compliance with this Agreement, Affiliate will be entitled to receive fees from HiBnb in an amount equal to **ten percent (10%)** of Revenues actually received by HiBnb from Referred Users during the term of this Agreement (the "**Fees**"). For clarity, Fees are payable on Revenues earned from new Referred Users only. Fees shall not be payable on amounts received from Users who were previously registered with HiBnb and who established new or duplicate accounts using Affiliate's Referral Code.

Fees due to Affiliate will be calculated and, if they meet the required threshold, will be paid by HiBnb once per calendar year, based upon the actual receipt of Revenue by HiBnb in such year.

HiBnb distributes Fees to Affiliates once per calendar year (each such period, a **“Payment Period”**). Fees will be deemed earned on the date on which Revenue is received by HiBnb, and will be paid in respect of the prior calendar year by no later than January 30<sup>th</sup> each year. Where the Fees owing to Affiliate are equal to or greater than \$100 CDN at the end of any Payment Period, the Fees will be paid to Affiliate. If the Fees owing to Affiliate are less than \$100 CDN at the end of any Payment Period, such Fees shall be forfeited and shall not be payable to Affiliate.

Affiliates are responsible for all applicable Taxes that arise from or as a result of the payment of Fees or any other activities under this Agreement. All payments are subject to investigation for compliance with the terms of this Agreement, and may be withheld during any such investigation. HiBnb may also withhold payment if Affiliate fails to provide HiBnb with information that is required to make payment.

Notwithstanding anything to the contrary in this Agreement, HiBnb will not be responsible to pay any Fees related to amounts that have been refunded to Referred Users by HiBnb or are subject to chargebacks. If any Fees paid by HiBnb are subsequently discovered to be subject to a return or chargeback, to have been paid in error, or were paid despite Affiliate’s non-compliance with this Agreement, HiBnb will have the right, in its sole discretion, to reclaim such amounts from Affiliate or to set off such amounts from Fees due to Affiliate in future Payment Periods. If the Agreement is terminated before such amounts are fully repaid by Affiliate to HiBnb, Affiliate shall repay to HiBnb the remaining balance within thirty (30) days of the effective date of termination of this Agreement.

HiBnb reserves the right to modify the Fees or the payment terms at any time upon reasonable advance notice to Affiliate. Such notice will be provided by email and/or by posting a notice on the Website. In the event of any disputes over Fees, HiBnb’s determination will be final and binding.

## **Termination**

Unless otherwise specified in the Agreement, any Party may terminate this Agreement at any time, with or without cause, effective immediately upon notice to another Party. Termination of this Agreement by Affiliate will result in the forfeiture of any accrued Fees which are not yet payable. Fraudulent or other unacceptable behaviour by Affiliate, as determined by HiBnb in its sole discretion, may result in termination of this Agreement without notice to, or recourse for, Affiliate and forfeiture of any accrued Fees.

HiBnb reserves the right to cancel or modify the Affiliate Program in its entirety, including Fees, at any time. If a significant change is made to this Agreement, including any material change to Fees, HiBnb will provide reasonable notice by email and/or by posting a notice on the Website.

## **Trademarks**

During the term of this Agreement, HiBnb hereby grants to Affiliate a limited, revocable, non-exclusive, non-sublicensable and non-transferable licence to display the HiBnb Trademarks solely as necessary to properly perform Affiliate’s obligations under this Agreement. Affiliate acknowledges and agrees that:

(a) it will use HiBnb’s Trademarks only as permitted under this Agreement;

(b) it will use the HiBnb Trademarks in a lawful manner and in strict compliance with all formats, guidelines, standards and other requirements prescribed by HiBnb in writing from time to time;

- (c) the HiBnb Trademarks are and will remain the sole property of HiBnb;
- (d) nothing in this Agreement will confer in Affiliate any right of ownership in the HiBnb Trademarks and all use thereof by Affiliate will inure to the benefit of HiBnb;
- (e) Affiliate will not, now or in the future, apply for or contest the validity of any HiBnb Trademarks; and
- (f) Affiliate will not, now or in the future, apply for or use any term or mark confusingly similar to any HiBnb Trademarks.

#### Restrictions on Affiliate's Use of the HiBnb Trademarks

Affiliates will not:

- (a) use the HiBnb Trademarks or variations or misspellings thereof in Affiliate's business name, logo, branding, social media handle or user name, or domain name, products or services unless granted express written permission by HiBnb in advance of each use; or
- (b) purchase or register search engine or other pay-per-click keywords (such as Google Ads), trademarks, email addresses or domain names that use the HiBnb Trademarks or any variations or misspellings thereof that may be deceptively or confusingly similar to the HiBnb Trademarks.

#### Proprietary Rights of HiBnb

As between Affiliate and HiBnb, the HiBnb Trademarks, and any additional intellectual or other property used by HiBnb, together with all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto (collectively, "**HiBnb Property**") will be and remain the sole and exclusive property of HiBnb. To the extent, if any, that ownership of any HiBnb Property does not automatically vest in HiBnb by virtue of this Agreement, or otherwise, and vests in Affiliate, Affiliate hereby transfers and assigns to HiBnb, upon the creation thereof, all rights, title and interest Affiliate may have in and to such HiBnb Property (and waives any and all moral rights, as applicable), including the right to sue and recover for past, present and future violations thereof.

#### Use of Affiliate Name and Likeness

Affiliate hereby grants to HiBnb a worldwide, non-exclusive, royalty-free, transferable and sub-licensable right and licence, to use and display in any manner, the Affiliate's name, likeness, amount of Fees earned and other information concerning Affiliate's participation in the Affiliate Program, in connection with and for the purpose of HiBnb's promotion of the Affiliate Program and/or the Website.

#### Confidentiality

"**Confidential Information**" will include, but will not be limited to, any and all information associated with HiBnb's business and not publicly known, including specific business information, technical processes and formulas, software, customer lists, prospective customer lists, names, addresses and other information regarding customers and prospective customers, product designs, sales, costs, price lists, and other unpublished financial information, business plans and marketing data, and any other confidential and proprietary information, whether or not marked as

confidential or proprietary. For the avoidance of doubt, as between HiBnb and Affiliate, User data is the Confidential Information of HiBnb.

To the extent that any Confidential Information is disclosed to Affiliate, Affiliate agrees to use such Confidential Information solely as necessary for performing its obligations under this Agreement. Affiliate agrees that they will take all reasonable steps to prevent the duplication, disclosure or improper use of any Confidential Information, other than as required by any law, regulation, or order of any court of proper jurisdiction.

### **Disclaimer of Warranty**

The HiBnb Affiliate Program and the HiBnb Trademarks are provided “as-is”. HiBnb makes no warranties under this Agreement, and HiBnb expressly disclaims all warranties, express or implied, including, but not limited to, warranties of merchantability, non-infringement or fitness for a particular purpose.

### **Limitation of Liability**

HiBnb will have no liability with respect to the HiBnb Affiliate Program, the HiBnb Trademarks, or HiBnb’s obligations under this Agreement or otherwise for any direct, indirect, incidental, special, consequential, or exemplary damages, including but not limited to, damages for losses of profits, goodwill, use, data or other intangible losses resulting in any way from the HiBnb Trademarks, or Affiliate’s participation or inability to participate in the HiBnb Affiliate Program, even if HiBnb has been advised of the possibility of such damages. In any event, HiBnb’s liability to Affiliate under this Agreement for any reason will be limited to the Fees paid to Affiliate by HiBnb during the twelve (12) month period immediately preceding the event giving rise to the claim for damages. This limitation applies to all causes of action in the aggregate, including, but not limited to, breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. The foregoing limitations will apply to the fullest extent permitted by applicable law.

### **Affiliate Indemnification**

Affiliate agrees to indemnify, defend and hold harmless HiBnb and its directors, officers, employees, subcontractors, shareholders, and agents thereof (each, an **“Indemnified Party”**, and collectively, the **“Indemnified Parties”**), with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys’ fees (collectively, **“claims”**), to the extent that such claim is based upon or arises out of:

- (a) Affiliate’s breach of any representation, warranty, obligation or covenant under this Agreement;
- (b) Affiliate’s gross negligence or wilful misconduct;
- (c) any warranty, condition, representation, indemnity or guarantee relating to HiBnb granted by Affiliate to any third party;
- (d) Affiliate’s breach of any term of this Agreement (including any documents it incorporates by reference);
- (e) Affiliate Taxes, including any audits or penalties related thereto; and
- (f) any breach of applicable law by the Affiliate.

## **Non-exclusive Remedies**

In the event of any breach or threatened breach by Affiliate of any provision of this Agreement, in addition to all other rights and remedies available to HiBnb under this Agreement and under applicable law, HiBnb will have the right to:

- (a) immediately enjoin all such activity, without the necessity of showing damages or posting bond or other security,
- (b) immediately terminate this Agreement and Affiliate's access to the Affiliate Program;
- (c) receive a prompt refund of all amounts paid to Affiliate under this Agreement; and
- (d) be indemnified for any losses, damages or liability incurred by HiBnb in connection with such violation.

## **General provisions**

Force Majeure - If the performance of any part of this Agreement by either Party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, riot, fire, judicial or governmental action (including, but not limited to, any law, regulation or embargo prohibiting the performance contemplated under this Agreement or the failure or refusal of a government agency to issue a license required for any performance pursuant to this Agreement), labour disputes, act of God or any cause beyond the reasonable control of that Party, the Party will be excused from such performance to the extent that it is prevented, hindered or delayed by such cause. Notwithstanding anything in this Agreement to the contrary, the Party prevented from performing under this Agreement by a force majeure event will nevertheless use its best efforts to recommence its performance under this Agreement as soon as reasonably practicable and to mitigate any damages resulting from its non-performance under this Agreement.

Independent Contractors - The Parties to this Agreement are independent contractors. Neither HiBnb nor the Affiliate will have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or otherwise bind, the other Party. This Agreement will not be interpreted or construed to create an association, agency, joint venture or partnership between the Parties or to impose any liability attributable to such a relationship upon either Party.

Notice - Any notice, approval, request, authorization, direction or other communication under this Agreement will be given in writing and will be deemed to have been delivered and given for all purposes on the delivery date, if delivered personally or by email (to Affiliate's email address provided to HiBnb or to HiBnb at [admin@hibnb.ca](mailto:admin@hibnb.ca) ).

No Waiver - The failure of any Party to insist upon or enforce strict performance by another Party of any provision of this Agreement or to exercise any right under this Agreement will not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same will be and remain in full force and effect. Each waiver will be set forth in a written instrument signed by the waiving Party.

Entire Agreement - This Agreement, including any completed application form and all guidelines and other documents linked or otherwise incorporated or referenced in this Agreement, sets forth the entire agreement and supersedes any and all prior agreements, written or oral, of the Parties with respect to the subject matter hereof.

Assignment - All the terms and provisions of this Agreement will be binding upon and inure to the benefit of the Parties to this Agreement and to their respective heirs, successors, permitted assigns and legal representatives. HiBnb will be permitted to assign this agreement without notice to or consent from Affiliate. Affiliate will have no right to assign or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, to any third party.

Applicable Laws - This Agreement will be governed by and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to principles of conflicts of laws. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Ontario with respect to any dispute or claim arising out of or in connection with this Agreement.

Severability - If any provision of this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability will not affect any other provision of the Agreement, and the Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained within the Agreement.

FTC Guidelines - If Affiliate is located in the United States, Affiliate will comply with all Federal Trade Commission ("**FTC**") guidelines governing endorsements and testimonials. Full compliance with these guidelines requires, among other things, that: (a) Affiliate clearly and conspicuously disclose that Affiliate is being compensated for referring prospective Users to HiBnb; and (b) Affiliate not engage in misleading or deceptive advertising.