

**WALNUT PARTNERSHIP AGREEMENT**  
**Terms & Conditions - US**

By entering into this Agreement, the Parties agree as follows:

**1. Certain Definitions**

- a. “**Confidential Information**” has the meaning set forth in section 8.a.
- b. “**Documentation**” means documents, site pages, and any other reference or technical material describing the operation and functioning of the Product made available by Walnut.
- c. “**End User**” means any individual who acquires the Product from Partner for its own use and not for transfer or resale of any kind.
- d. “**End User Information**” means any information collected, received, processed, or maintained by or on behalf of Partner from or relating to any End User in connection with the Product.
- e. “**Fees**” has the meaning set forth in section 5.a.
- f. “**Intellectual Property**” means all registered and unregistered intellectual property rights, including patents, copyrights, trademarks, service marks, trade names, domain names, design rights and database rights, any proprietary indicia, and any applications, renewals, and extensions for the protection or registration thereof.
- g. “**Marketing Materials**” has the meaning set forth in section 3.b.
- h. “**Privacy Policy**” means the privacy policy available at <https://www.gowalnut.com/privacy>.
- i. “**Product**” means any then-current version of the Walnut Membership offering(s) listed in Appendix A.
- j. “**Territory**” means the area identified in Appendix A. If no Territory is defined, the Territory is the United States.
- k. “**Term**” has the meaning set forth in section 9.a.
- l. “**Terms of Use**” means the terms and conditions available at <https://www.gowalnut.com/terms-of-use>.
- m. “**Walnut Properties**” means the Product, Documentation, Walnut’s Intellectual Property, Marketing Materials, Walnut’s Confidential Information, and other technologies, information (including any End User Information), and materials provided by Walnut to Partner to enable Partner to market, promote, or provide maintenance, support, or other services for, the Product.

Other terms are defined where first used.

**2. License**

- a. **Walnut Grant.** Subject to and conditioned on Partner’s payment of Fees and compliance with this Agreement, Walnut grants Partner a limited, non-transferable, non-sublicensable, non-exclusive right in the Territory and during the Term to (i) market, distribute, and sell the Product to End Users solely for use in accordance with Walnut’s Terms of Use, and (ii) to use, reproduce, and display Walnut’s Intellectual Property for the sole purpose of marketing, promoting, reselling, and distributing the Product. All other rights to the Product and Walnut’s Intellectual Property are expressly reserved by Walnut.
- b. **Partner Grant.** Partner grants Walnut a limited, non-transferable, non-sublicensable, non-exclusive right in the Territory and during the Term to use, reproduce, and display Partner’s Intellectual Property for the sole purpose of marketing, promoting, reselling, and distributing the Product on any co-branded website used by the Parties for marketing the Product.
- c. **Limitations.**
  - i. **General.** Partner shall not use Walnut Properties, Documentation for any purposes beyond the scope of the license granted in this Agreement. Except as otherwise expressly set forth in this Agreement, Partner shall not at any time, directly or indirectly: (i) copy, modify or make derivative works based on the Product; (ii) remove any Intellectual Property, identification or other proprietary notices contained in Walnut Properties; (iii) reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Product, (iv)

use Walnut Properties in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property right or other right of any person, or that violates any applicable law or (v) access the Product to (1) build a competitive product or service, or (2) copy any ideas, features, functions, or graphics of the Product.

- ii. **Intellectual Property Use Restrictions.** All uses of the Walnut's Intellectual Property, and all goodwill associated therewith, will inure solely to the benefit of Walnut. Partner shall not use any of Walnut's trademarks or other Intellectual Property (whether individually or in combination, or in whole or in part): (A) in or in connection with the advertising, promotion, or marketing of any goods, services, or technologies other than the Product; (B) as part of Partner's corporate or trade name or any domain name; (C) in any way that may cause confusion, mistake, or deception; or (D) in any way that may dilute, tarnish, or otherwise diminish any of Walnut's Intellectual Property's distinctiveness, or jeopardize the reputation of or goodwill associated with any of Walnut's Intellectual Property, Product, or Walnut or the validity of Walnut's ownership of Walnut's Intellectual Property or the registrations therefor.

**d. No Implied Rights.** Walnut reserves all rights not expressly granted to Partner in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Partner or any third party any Intellectual Property or other right, title, or interest in or to any Product or other Walnut Properties. Nothing in this Agreement grants or conveys, or permits Partner to grant or convey, any ownership right in any of the Walnut Properties or any article or copy thereof or Intellectual Property therein.

**e. Business Conduct.** Partner will (i) conduct its business in a manner that reflects favorably on Walnut and the Product, (ii) not engage in deceptive, misleading, or unethical business practices, and (iii) not make any representations or warranties with respect to the Product inconsistent with those in the agreements with End Users.

### 3. Marketing

**a.** Each Party will designate a qualified person to serve as the primary contact ("**Primary Contact**") for the other Party under this Agreement. The Primary Contacts will be responsible for day-to-day operations and approvals hereunder. The Parties may change the Primary Contact during the Term via email to the other Party's Primary Contact.

**b.** Promptly after the Effective Date, Walnut will make information and marketing materials describing the Product in reasonable detail ("**Marketing Materials**") available to Partner. Walnut may update the Marketing Materials at its discretion during the Term, and Partner will always use the then-current Marketing Materials.

**c.** The Primary Contacts will meet at least once per quarter to review marketing plans and sales objectives for the Product, and to discuss means by which the Parties may, at their option, cooperate in marketing and promotional activities.

**d.** Partner shall submit to Walnut complete and accurate monthly reports regarding marketing and sales of the Products in a computer-readable format and containing the scope of information acceptable to Walnut, maintain books, records and accounts of all transactions and permit full examination thereof by Walnut.

**e.** Partner will, in a manner that reflects favorably on Walnut and the Product at all times, make commercially reasonable efforts to effectively market, promote and sell the Product to End Users during the Term, including listing Walnut in printed and digital properties that describe third party products available from Partner, and reasonably cooperating with Partner to create sales leads and marketing opportunities.

**f.** Partner will (i) not make any materially misleading or untrue statements concerning or any claim about Walnut or the Product inconsistent with the current information provided by Walnut or that has been approved by Walnut in writing, (ii) not use deceptive, misleading, illegal, or unethical practices in marketing and promoting the Product including any product disparagement or "bait-and-switch" practice, and (iii) inform Walnut about any problems encountered with the Product.

**g.** Partner will not sell or promote the Product together with, as part of a bundle or package, any other product, software or accessory without the approval of Walnut, which Walnut may withhold at its sole

discretion.

#### 4. End User Management

- a. Partner will collect and remit payments for the Product from End Users and Walnut will provide End Users access to the Product by (i) providing an API for integration and onboarding; or (ii) sending an onboarding email to the End User based on the information provided by the Partner including at least first name, last name, and email address at a minimum based on Product requirements. Walnut will be responsible for all other interactions with End Users regarding the Product, including providing customer support.
- b. End Users must accept Walnut's then-standard Terms of Use and Privacy Policy in order to access the Product. If an End User terminates their relationship with Partner, or this Agreement is terminated, it will not affect End User accounts with Walnut, which will remain in effect for the remainder of the paid-up term. Walnut may contact any such user about continuing to obtain the Product directly from Walnut.
- c. **End User Data.** Subject to compliance with applicable law, Partner will collect End User Information and provide such End User Information to Walnut in connection with fulfilling its obligations under this Agreement.

#### 5. Payment

- a. **Fees.** The amounts the Parties will pay for the right to distribute the Product to End Users (the "Fees") are set forth in Appendix A. Unless otherwise stated in Appendix A, Fees will be calculated and billed monthly in arrears based on End User usage of the Product as set forth in Appendix A. All Fees are due thirty (30) days after receipt of invoice. Partner acknowledges that the pricing or components of the Product may change at any time due to changes in insurance premiums or cost or availability of non-insurance benefits. Walnut will use reasonable commercial efforts to provide advance notice of any changes.
- b. **Costs and Expenses.** Except as expressly set forth in this Agreement or Appendix A, each Party will bear its own costs and expenses incurred in performing its obligations under this Agreement, including expenses related to marketing the Product.
- c. **Taxes.** All Fees and other amounts payable by Partner under this Agreement are exclusive of taxes and similar assessments. Partner is responsible for all sales tax, value added tax, use and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, territorial, or local governmental or regulatory authority on any amounts payable by Partner hereunder including all taxes imposed on the sale of the Product, but excluding taxes based on Walnut's net income or gross receipts and taxes from which Partner is exempt by law as shown by a valid tax exemption certificate, when such certificate is required. Walnut will include the amount of any sales taxes it is responsible for collecting and remitting on each invoice, as applicable.

- 6. **Ownership.** All right, title, and interest in the Walnut Properties and Intellectual Property therein are and will remain the sole property of Walnut and its suppliers and licensors. Partner has no right or license to any Walnut Properties except as expressly licensed under this Agreement, and subject to the requirements and restrictions set forth in this Agreement. Partner hereby unconditionally and irrevocably assigns to Walnut or Walnut's designee its entire right, title, and interest in and to any Intellectual Property rights that Partner may acquire in or relating to any of the Walnut Properties (including any rights in derivative works or patent improvements relating thereto), whether acquired by operation of law, contract, assignment, or otherwise. Except as provided herein, neither Party will use the other Party's Intellectual Property without prior written consent.

- 7. **Audit and Inspection Rights.** During the term of this Agreement, on request and during regular business hours, Walnut or its representatives may at its own expense reasonably inspect Partner's facility and audit Partner's books, records, and other documents as necessary to verify compliance with the terms and conditions of this Agreement.

#### 8. Confidentiality

- a. **"Confidential Information"** means all non-public, confidential or proprietary information of a Party, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data,

business operations, customer lists, pricing, discounts or rebates disclosed by or on behalf of a Party (the “**Disclosing Party**”) to the other (the “**Recipient**”) whether disclosed orally or disclosed or accessed in written, electronic or other form or media, whether or not marked, designated or otherwise identified as “confidential” or, that by its nature or the circumstances of its disclosure would reasonably be recognized as confidential. Confidential Information will not include, and the obligations of this Section 8 will not apply to, information (i) that is at the time of disclosure (or later becomes, through no fault of the Recipient) generally available to the public, (ii) which the Recipient properly knew prior to its disclosure by the Disclosing Party, (iii) that Recipient learns from a third party that, to the Recipient’s knowledge, has no confidentiality obligation to the Disclosing Party, or (iv) that is independently developed by the Recipient without use of or reference to the Disclosing Party’s Confidential Information.

**b. Obligations.** Recipient will, and will require its employees, consultants, professional representatives and agents to, maintain and protect the Disclosing Party’s Confidential Information with the same degree of care it uses to protect its own Confidential Information of a similar nature, but in no event with less than a reasonable degree of care. Recipient will use Confidential Information solely to perform its obligations hereunder, and only disclose such Confidential Information to its employees, consultants, professional representatives, and agents who are bound in writing to confidentiality obligations materially similar to those in this Section 8 on a need-to-know basis. The Recipient will be liable for any breach of this Section 8 by any entity or individual who obtains Confidential Information from it.

**c. Mandated Disclosure.** The Recipient may disclose Confidential Information to the extent mandated by subpoena, court order, or other legal requirement, after first giving the Disclosing Party a reasonable opportunity to contest such order. Information so disclosed will still be deemed Confidential Information despite such disclosure.

**d. Injunctive Relief.** Any use or disclosure of Confidential Information by Recipient in breach of this Section 8 may cause the Disclosing Party harm that may not be remedied by monetary damages. Accordingly, the Disclosing Party may, in addition to any other legal or equitable remedies available to it, seek immediate injunctive or equitable relief without posting a bond or showing specific harm.

**e. Return of Confidential Information.** The Recipient will promptly return or destroy, at the Disclosing Party’s option, the Disclosing Party’s Confidential Information, including any materials incorporating such information, upon expiration or termination of this Agreement, or upon the Recipient’s request. The Recipient may return limited copies of the Disclosing Party’s Confidential Information consistent with the Recipient’s established document retention policies, and subject to ongoing compliance with this Section 8.

## **9. Term and Termination**

**a.** This Agreement will remain in effect for one (1) year following the Effective Date, and will thereafter renew for additional one (1) year terms unless either Party provided notice to the other Party of its intention not to renew the agreement no less than thirty (30) days prior to the then-current expiration date (all such periods, collectively, the “**Term**”).

**b.** In addition to any remedies that may be provided in this Agreement, Walnut may immediately terminate this Agreement, upon notice to Partner if Partner fails to pay any amount when due under this Agreement.

**c.** Either Party may terminate this Agreement upon notice to the other Party for a material breach of this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured within thirty (30) days following the Party’s receipt of notice of such breach.

**d.** Either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

- e. Upon termination of this Agreement, Partner will promptly stop marketing and promotion of the Product, including production or promotion of any Marketing Materials, and will cease to represent itself as associated with Walnut, or as Walnut's authorized Partner. Subject to Section 8(e), each Party will immediately return or destroy all copies of the other Party's Confidential Information in its possession. Termination of this Agreement will not affect an End User's rights to continue using the Product as set forth in Section 4(b). Upon termination, (i) all licenses granted to the Partner hereunder will expire or terminate and (ii) Partner shall cease all use of the Products and other Walnut Properties, and all copies thereof, in whole and in part, including in any marketing, promotion, sale, maintenance, support or use of the Products.
- f. Sections 4(c), 5 (to the extent payments remain outstanding), 6, 8, 9(e), 9(f), 11, 12 and 13 will survive termination of this Agreement.

#### 10. Warranties

- a. Product warranties are granted solely to the End User under the Terms of Use.
- b. Each Party represents and warrants that (a) it has the authority to enter into this Agreement and perform its obligations hereunder, and that doing so does and will not violate any obligations it has to third parties, and (b) it will comply with all laws and regulations applicable to the obligations assumed under this Agreement.
- c. Walnut represents that the sale and use of the Product complies with all applicable law in the United States.
- d. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 10, NEITHER WALNUT NOR ANY PERSON ON WALNUT'S BEHALF HAS MADE OR MAKES FOR PARTNER'S OR ITS CUSTOMERS' BENEFIT ANY EXPRESS OR IMPLIED REPRESENTATION, WARRANTY, OR CONDITION OF (i) MERCHANTABILITY; (ii) FITNESS FOR A PARTICULAR PURPOSE; (iii) NON-INFRINGEMENT; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. PARTNER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION, WARRANTY OR CONDITION MADE BY WALNUT, OR ANY OTHER PERSON ON WALNUT'S BEHALF, WITH RESPECT TO ANY OF WALNUT'S INTELLECTUAL PROPERTY OR PRODUCT

#### 11. Indemnification

- a. **By Walnut.** Walnut will defend, indemnify and hold Partner harmless from and against all damages and costs incurred as a result of a third-party claim that Walnut's Intellectual Property, as supplied to Partner under this Agreement, infringe or misappropriate a third party's Intellectual Property. Such indemnification will not apply (i) to the extent such claims are based on Partner's combination of Walnut's Intellectual Property with other products if the infringement could have been avoided by the use of such Walnut's Intellectual Property not in such combination, (ii) any modifications to Walnut's Intellectual Property not made by Walnut, its suppliers and licensors, or (iii) any damages incurred as a result of Partner's failure to use any update to Walnut's Intellectual Property provided by Walnut.
- b. **By Partner.** Partner will defend, indemnify and hold Walnut, its suppliers and licensors harmless from and against all damages and costs incurred as a result of a third party claim arising out of (i) Partner's combination of Walnut's Intellectual Property or Product with other products or Partner's modifications or alterations of Walnut's Intellectual Property or Product, (ii) a claim that Partner's products or materials infringe or misappropriate a third party's Intellectual Property, (iii) Partner's advertising or representations that warrant performance of Product beyond that provided by Partner's written warranty or based upon Partner's business or trade practices, (iv) Partner's acts or omissions as Partner of the Product, including negligence, willful misconduct, or breach of this Agreement, (v) any failure by Partner or its personnel to comply with any applicable laws, or (vi) allegations that Partner breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

c. **Procedure.** The indemnified Party will promptly notify the indemnifying Party of any claim for which it will seek indemnification, provided that the indemnifying Party will not be relieved of its obligations under this Section 11 by a delay in notification except to the extent it is actually prejudiced by the delay. The indemnifying Party will have sole control over the defense and settlement of any claim, provided that it may not enter into a settlement that imposes any liability or obligation on the indemnified Party without the indemnified Party's prior written consent. The indemnified Party will cooperate with the indemnifying party's defense of any claim at the indemnifying Party's cost and expense.

## 12. **Limitation of Liability**

a. WALNUT SHALL NOT BE LIABLE TO THE PARTNER FOR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL, PUNITIVE, AGGRAVATED OR SPECIAL DAMAGES, LOST PROFITS OR REVENUES OR COSTS RESULTING FROM ANY CLAIM OR CAUSE OF ACTION BASED ON BREACH OF THIS AGREEMENT, OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (I) WHETHER THE DAMAGES OR CLAIM WERE FORESEEABLE (II) WHETHER OR NOT WALNUT WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES OR THE CLAIM BEING MADE ; AND (III) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) ASSERTED,

b. IN NO EVENT WILL WALNUT'S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO WALNUT UNDER THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

c. THE LIMITATIONS ABOVE WILL NOT APPLY TO A PARTY'S INDEMNIFICATION OBLIGATIONS, BREACHES OF ITS CONFIDENTIALITY OBLIGATIONS, OR HARMS ARISING FROM GROSS NEGLIGENCE OR WILFUL MISCONDUCT.

## 13. **Miscellaneous.**

a. **Publicity.** The Parties will mutually agree on any public announcements regarding this Agreement, provided that each Party may list the other as a Partner/provider of the other (as applicable).

b. **Notices.** All communications intended to have legal effect under the Agreement will be in writing and delivered personally, via email with receipt acknowledgment or sent via commercial overnight courier or postal mail requiring signature upon receipt to the applicable Party's address set forth in the preamble. Notices will be deemed given on the date of delivery (or refusal). Operational communications, including changing a Party's notice address, may be delivered by email to the other Party's Primary Contact as identified in Appendix A. All notices to Walnut will be sent to the attention of "Legal."

c. **Entire Agreement; Amendment.** This Agreement is the Parties' entire understanding regarding its subject matter and supersedes any prior or contemporaneous oral or written agreement or communication about its subject matter. This Agreement may only be modified in a writing signed by authorized representatives of both Parties.

d. **Waiver.** No waiver of any rights or obligations of either Party hereunder will be effective unless in writing and signed by the Party waiving the rights, and any such waiver will be effective only in the specific instance and for the specific purpose stated in such writing.

e. **Force Majeure.** Neither Party will be liable to the other for any failure to perform its obligations caused by natural disasters, civic or political unrest, or other actions beyond the affected Party's reasonable control (a "Force Majeure Event"), provided that the affected Party (i) promptly informs the other Party of such event in writing, and (ii) takes all reasonable steps to mitigate the effects of the Force Majeure Event. If a Force Majeure Event lasts more than thirty (30) days, either Party may immediately terminate this Agreement.

f. **Headings and Interpretation.** Section headings are provided for convenience and do not affect the meaning of the provisions to which they may relate. References to "days" or other time periods mean calendar

periods unless otherwise indicated; “including” means “including, without limitation”; and “may” means “has the right, but not the obligation to.”

**g. Severability.** Any provision of this Agreement held invalid by a court of competent jurisdiction will be deemed restated to reflect as nearly as possible the Parties’ original intent, and the remainder of this Agreement will remain in full force and effect.

**h. Assignment.** Neither Party may assign this Agreement in whole or in part without the other Party's prior written consent, except that consent is not required for (i) assignment to an affiliate of a Party, (ii) the sale of all or substantially all of the assets of a Party, or (iii) merger into another company. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective and permitted successors and assigns.

**i. Independent Contractors.** The Parties are independent contractors and neither Party will have or represent that it has the right, power or authority to bind the other Party to any obligation. Each Party will bear its own costs and expenses in performing this Agreement. Nothing in this Agreement will be deemed or construed as creating a joint venture, partnership, agency relationship, franchise, or business opportunity between the Parties. Neither Party, by virtue of this Agreement, will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other Party.

**j. Governing Law.** This Agreement, including its formation, will be governed by and construed in accordance with the laws of the State of Delaware, without reference to conflicts of laws rules that would require a different result.

LAST UPDATED FEBRUARY 24, 2022