



## Miro Referral Partner Program Agreement

This Miro Referral Partner Program Agreement (“**Agreement**”) is between the entity or person agreeing to enter Miro’s referral partner program (“**Partner**” or “**you**”) and RealtimeBoard, Inc. dba Miro (“**Miro**”) and effective as of the date Partner accepts this Agreement (the “**Effective Date**”). If you are accepting this Agreement on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company, and all references to “you” reference your company. Definitions of capitalized terms are found in Section 12 (Definitions) or contextually below.

**1. Program.** Welcome to Miro’s referral partner program (the “**Program**”)! Under the Program, Partner has the rights and responsibilities described in this Agreement, the Program Policies and any mutually executed plans describing Program activities (“**Program Plans**”). Any Program Plans attached hereto as Exhibits are agreed as of the Effective Date.

**2. Use of the Service and Developer Platform.**

**2.1 Service.** No right to use the Service is granted to Partner under this Agreement except to the extent otherwise stated in a Program Plan. For a Customer to use the Service, the Customer must create its own account and accept the Customer Agreement directly with Miro. Partner may not do so on a Customer’s behalf. Partner may only access a Customer’s account as separately arranged between Partner and the Customer.

**2.2 Developer Platform.** This Agreement does not grant any rights to Miro’s Developer Platform, which is subject to a separate agreement [here](#). Neither party is developing intellectual property under this Agreement for or with the other party.

**3. Marketing.**

**3.1 Use of Brand Elements.** During the Term, subject to this Agreement, each party grants the other the right to use and display its Brand Elements solely to identify the parties’ relationship under this Agreement and for mutually agreed marketing activities. Rights granted in this Agreement are non-exclusive and (except as set out in this Agreement) non-sublicensable and non-transferable.

**3.2 Approvals and Usage Limits.** Either party’s use of the other party’s Brand Elements is subject to the other party’s prior approval and any usage guidelines it provides in writing. After initial approval, substantially similar uses do not require subsequent approval. In addition, any press release or other public announcement relating to this Agreement must be approved by each party in advance. Partner hereby approves Miro’s use of Partner’s Brand Elements to promote Partner’s participation in the Program. Each party will promptly cease any problematic use of the other party’s Brand Elements upon request.

**3.3 No Disparagement.** Partner will not disparage Miro or the Service and will promote the Service in a balanced and equitable manner compared to any Competing Services.

**4. Intellectual Property Rights.**

**4.1 Ownership.** Neither party grants the other any rights or licenses not expressly set out in this Agreement. Except for Miro’s use rights in this Agreement, Partner retains all intellectual property and other rights in its Brand Elements (including all goodwill arising from their use). Except for Partner’s use rights in this Agreement, Miro and its licensors retain all intellectual property and other rights in its Brand Elements (including all goodwill arising from their use), the Service and any related Miro technology, templates, formats and dashboards, including any modifications or improvements to these items made by Miro.

**4.2 Feedback.** If either party provides the other party with feedback about the other party’s offerings, the recipient may use the feedback without restriction. This is not a license under the feedback provider’s patent rights.

**5. No Fees or Expenses.** Except as expressly set out in a Program Plan, there are no fees, revenue share or other amounts due from either party to the other under this Agreement. Each party is solely responsible for its expenses and costs of performing under this Agreement.

**6. Term of Agreement.**

**6.1 Term.** This Agreement will have an initial term of 12 months and will renew for successive 12-month periods unless either party gives the other party notice of non-renewal at least 30 days before the current term ends (the “**Term**”).

**6.2 Termination.** Either party may terminate this Agreement for no reason or any reason upon 60 days’ notice to the other party. Either party may also terminate this Agreement if the other party fails to cure a material breach of this Agreement within 30 days after notice of such breach. Miro may terminate this Agreement effective immediately upon notice if it ceases to offer the Program or if it determines that termination is necessary to comply with laws or to avoid liability or harm to its services, reputation or users.

**6.3 Effect of Termination.** Upon any expiration or termination of this Agreement, (a) all licenses granted under this Agreement will terminate, (b) each party will cease using the other party’s Brand Elements under Section 3 (Marketing) (subject to a reasonable take-down period) and (c) the receiving party will delete the disclosing party’s Confidential Information and if requested certify deletion. Confidential Information may be retained in the receiving party’s standard backups after deletion but will remain subject to this Agreement’s confidentiality restrictions. Neither party will have any liability arising solely from a permitted termination of this Agreement.

**6.4 Survival.** These Sections survive termination or expiration of this Agreement: Sections 3.2 (Approvals and Usage Limits), 4 (Intellectual Property Rights), 6.3 (Effect of Termination), 6.4 (Survival), 7.3 (Disclaimer of Warranties), 8 (Indemnification), 9 (Confidential Information), 10 (Limitation of Remedies and Damages), 11 (General), 12 (Definitions) and any restrictions provisions of a Program Plan or any other provisions which are designated to survive under a Program Plan. Except where an exclusive remedy is provided, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.

**7. Conduct and Warranties.**

**7.1 Conduct.** In performing this Agreement, Partner will not (a) hold itself out as a reseller or distributor of Miro’s services, (b) engage in any misleading or deceptive conduct detrimental to Miro or (c) make any representations, warranties or commitments

on Miro's behalf or regarding the Miro's services.

**7.2** Warranties. Each party represents and warrants to the other that (a) it has the required power and authority to enter into and perform its obligations in this Agreement, (b) its execution and performance of this Agreement will not violate any other agreement to which it is a party and (c) it will comply with all applicable laws in its performance of this Agreement, including Anti-Corruption Laws, and will not give, offer or promise any item of value to any official, person or entity in violation of Anti-Corruption Laws.

**7.3** Disclaimer of Warranties. **Except as expressly set out in this Agreement, neither party makes any warranties, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular purpose, title or non-infringement. Miro provides the Service, its Brand Elements and all other materials "AS IS" and "AS AVAILABLE."**

## **8. Indemnification.**

**8.1** Obligations. Each party will defend, indemnify and hold harmless the other party and its officers, directors, employees, representatives and agents from and against any third-party claims, demands, losses, costs, expenses, damages and liabilities (including reasonable attorneys' fees) to the extent arising from or relating to (a) an allegation that the indemnifying party's Brand Elements, when used as authorized in this Agreement, infringe third-party trademark or copyright rights or (b) the indemnifying party's breach of Section 7 (Conduct and Warranties).

**8.2** Procedures. The indemnifying party's obligations in this Section are subject to receiving (a) prompt notice of the claim, (b) the exclusive right to control and direct the investigation, defense and settlement of the claim and (c) all reasonably necessary cooperation of the indemnified party, at the indemnifying party's expense for reasonable out-of-pocket costs. The indemnifying party may not settle any claim without the indemnified party's prior consent if settlement would require the indemnified party to admit fault or take or refrain from taking any action (other than ceasing use of infringing materials). The indemnified party may participate in a claim with its own counsel at its own expense.

## **9. Confidential Information.**

**9.1** Definition. "**Confidential Information**" means information disclosed to the receiving party under this Agreement that is designated by the disclosing party as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Miro's Confidential Information includes the terms and conditions of this Agreement and any technical or performance information about the Service.

**9.2** Obligations. As receiving party, each party will (a) hold Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement. The receiving party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know, provided it remains responsible for their compliance with this Section 9 and they are bound to confidentiality obligations no less protective than this Section 9.

**9.3** Exclusions. These confidentiality obligations do not apply to information that the receiving party can document (a) is or becomes public knowledge through no fault of the receiving party, (b) it rightfully knew or possessed prior to receipt under this

Agreement, (c) it rightfully received from a third party without breach of confidentiality obligations or (d) it independently developed without using the disclosing party's Confidential Information. The receiving party may disclose Confidential Information if required by law, subpoena or court order, provided (if permitted by law) it notifies the disclosing party in advance and cooperates in any effort to obtain confidential treatment.

**9.4** Remedies. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 9.

## **10. Limitation of Remedies and Damages.**

**10.1** Consequential Damages Waiver. **Except for Excluded Claims, neither party (nor its suppliers) will have any liability arising out of or related to this Agreement for any loss of use, lost data, lost profits, failure of security mechanisms, interruption of business or any indirect, special, incidental, reliance or consequential damages of any kind, even if informed of their possibility in advance.**

**10.2** Liability Cap. **Except for Excluded Claims, each party's (and its suppliers') entire liability arising out of or related to this Agreement will not exceed in the aggregate the greater of (a) \$10,000 or (b) the amounts paid or payable by either party during the prior 12 months under this Agreement.**

**10.3** Excluded Claims. "**Excluded Claims**" means (a) either party's breach of Section 9 (Confidential Information), (b) amounts payable to third parties by the indemnifying party under Section 8 (Indemnification) ("**Indemnity Liability**") or (c) Partner's breach of the restrictions provisions of any Program Plan. However, the indemnifying party's aggregate Indemnity Liability is limited to \$1,000,000.

**10.4** Nature of Claims and Failure of Essential Purpose. The parties agree that the waivers and limitations specified in this Section 10 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

## **11. General.**

**11.1** Assignment. Neither party may assign this Agreement without the prior consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all its assets or voting securities. Either party may terminate this Agreement on written notice to the other party within 30 days of such assignment. Any non-permitted assignment is void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

**11.2** Affiliates and Contractors. Each party may use its affiliates and contractors to exercise its rights and fulfill its obligations, but remains responsible for their compliance with this Agreement.

**11.3** Governing Law, Jurisdiction and Venue. This Agreement is governed by the laws of the State of California and the United States without regard to conflicts of laws provisions and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to this Agreement will be the state and United States federal courts located in San Francisco, California, and both parties submit to the personal jurisdiction of those courts.

**11.4** Notices. Notices, approvals and consents under this Agreement must be in writing to the addresses below, with email sufficient for operational matters. Either party may update its address with notice to the other party.

**11.5** Modifications to Agreement. Miro may modify this Agreement from time to time at its sole and final discretion.

**11.6** Entire Agreement. Except as otherwise set out in this Agreement, this Agreement (which includes Program Policies and any Program Plans) is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation. This Agreement may be executed in counterparts (including electronic copies and PDFs), each of which is deemed an original and which together form one and the same agreement. The terms in any Partner business form or other document will not amend or modify this Agreement and are expressly rejected by Miro; any of these documents are for administrative purposes only and have no legal effect.

**11.7** Amendments. Other than the Program Policies, any amendments, modifications or supplements to this Agreement must be in writing and signed by each party's authorized representatives or, as appropriate, agreed through electronic means provided by Miro.

**11.8** Waivers and Severability. Waivers must be signed by the waiving party's authorized representative and cannot be implied from conduct. If any provision of this Agreement is held invalid, illegal or unenforceable, it will be limited to the minimum extent necessary so the rest of this Agreement remains in effect.

**11.9** Force Majeure. Neither party is liable for any delay or failure to perform any obligation under this Agreement due to events beyond its reasonable control, such as a strike, blockade, war, act of terrorism, riot, Internet or utility failures, refusal of government license or natural disaster.

**11.10** Relationship of the Parties. The parties are independent contractors, not agents, joint venturers or partners, despite use of the term "Partner". Except as set out in Section 3.3 (No Disparagement), this Agreement does not limit either party from entering into any partner, customer, referral, resale or other agreement with any party during or after the Term. Nothing limits Miro in managing its relationships with Customers.

**11.11** Export. Partner agrees to comply with all relevant U.S. and foreign export and import laws in using the Service. Partner (a) represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a "terrorist supporting" country, (b) agrees not to access or use the Service in violation of any U.S. export embargo, prohibition or restriction and (c) will not submit to the Service any information controlled under the U.S. International Traffic in Arms Regulations.

**11.12** Government End-Users. The Service and related documentation were developed at private expense and are "commercial items", "commercial computer software", "commercial computer software documentation" and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. All use on behalf of the U.S. Government is limited as set out in this Agreement.

## **12. Definitions.**

"**Anti-Corruption Laws**" means all applicable anti-bribery and anti-corruption laws and regulations, including the United States Foreign Corrupt Practices Act, U.K. Bribery Act 2010, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

"**Brand Elements**" means the trademarks, service marks, names, logos, images, collateral or similar materials provided by a party for use under this Agreement.

"**Competing Service**" means any service offering similar functionality to the Service, including any hosted collaborative whiteboard services.

"**Customer**" means a prospective or actual customer of the Service.

"**Customer Agreement**" means the then-current version of Miro's Terms of Service found [here](#) or other applicable customer agreement with Miro.

"**Program Policies**" means then-current version of Miro's Program policies, as provided by Miro in writing.

"**Service**" means the standard commercial offering of the Miro whiteboard service or as otherwise specified on the applicable Program Plan.

**By indicating your acceptance of this Agreement, you are agreeing to be bound by the terms and conditions of this Agreement. Each party expressly agrees that this Agreement is legally binding upon it.**

## **Exhibit A**

### **Miro Referral Partner Program**

#### **Program Plan for Referrals**

- 1. Registration.** Partner will register prospective Customer opportunities through Miro's written deal registration process.
- 2. Acceptance; Registered Opportunities.** Miro has sole discretion whether to accept an opportunity and may reject an opportunity for any reason, including if the prospective Customer (a) is an existing or past customer of Miro, (b) is already in discussions with Miro or one of its affiliates or (c) has already been registered by another partner. If Miro does not respond to a potential opportunity within 5 days

of registration, it is deemed rejected. Opportunities that Miro accepts in writing and for which it provides Partner a unique registration number are “**Registered Opportunities**”.

**3. Scope and Expiration.** Each Registered Opportunity applies only to the specific Customer opportunity it identifies, not to any other sale or renewal (including to that Customer or its affiliates). Registered Opportunities expire 90 days after registration unless Miro specifies another period in writing at the time of acceptance.

**4. Sales Efforts.** For each Registered Opportunity, Partner must actively introduce Miro to the prospective Customer, including arranging an initial meeting. All subsequent contact with the Customer relating to the Service will be at Miro’s sole direction and control. Miro has no obligation to enter into a transaction with any Customer, and execution of any Customer Agreement will be in Miro’s sole discretion and control.

**5. Referral Fees.** Subject to this Program Plan, if a Registered Opportunity results in the Customer’s paid subscription to the Service, Miro will pay Partner a referral fee as set out below (“**Referral Fee**”).

Referral Fee	10% of Subscription Fees, with a cap of \$50,000 (unless otherwise agreed in writing by the parties for a specific Registered Opportunity)
Subscription Fees	“ <b>Subscription Fees</b> ” means the Service subscription fees actually paid by the Customer for its first 12-month subscription term following entry into the Customer Agreement.
Exclusions	Subscription Fees exclude any separate fees for support, maintenance, overages, training, professional services or any other product or service. Subscription Fees will be reduced by any refunds, penalties, sales taxes, credits or other allowances to the Customer.

**6. Payment Terms.** Miro will pay Referral Fees by the last day of the month following the month in which Miro receives the applicable Subscription Fees, based on invoiced amounts actually paid to Miro. Referral Fees based on Subscription Fees paid in installments will likewise be paid in installments. For sales made through a reseller, Subscription Fees only include the amount received by Miro, not the amount paid by the Customer to the reseller. Amounts related to contingencies that are subject to refund will be held back until the contingencies are satisfied for both GAAP revenue recognition and legal requirements.

**7. No Other Amounts.** Partner is not owed any amounts other than Referral Fees. Notwithstanding anything else, Referral Fees apply only for Registered Opportunities for which Partner has complied with this Program Plan and not any other Partner-identified leads or opportunities, even if resulting in a sale.

**8. Termination.** This Program Plan will terminate upon any termination or expiration of the Agreement, and Miro may also terminate this Program Plan at any time. Miro will pay any Referral Fees for Registered Opportunities accepted prior to expiration or termination as they come due in accordance with this Program Plan.