

Partner Agreement



419 W Judy Dr.

Fremont, NE 68025

Email: support@geokeyaccess.com

Website: www.geokeyaccess.com

This Partner Agreement (“*Agreement*”) is made effective by and between Geokey, Inc. of 419 W. Judy Dr., Fremont, NE 68025 (“*Geokey*”) and the Partner Company (“*PARTNER*”) that accepts these terms as a part of Geokey’s partner registration process. By accepting this Agreement, whether by clicking a box indicating its acceptance or navigating through a login page where a link to this Agreement is provided, Partner agrees to be bound by the terms hereof.

This Agreement is effective as of the earlier of the date that Partner accepts the terms of this Agreement as indicated above (the “*Effective Date*”). Geokey reserves the right to modify or update the terms of this Agreement in its discretion, the effective date of which will be the earlier of (i) 30 days from the date of such update or modification and (ii) Partner’s continued participation in Geokey’s partner program following such update.

For good and reasonable consideration, the PARTNER and Geokey agree as follows:

1. Performance of Services.

PARTNER shall at its own expense perform the following activities (“*Services*”):

- a. market, advertise, promote, and solicit the sale of Geokey-owned, branded, or licensed products (“*Products*”) to prospective and existing customers (“*Customer*”) consistent with good business practice, in each case using its best efforts to maximize product sales volume, and in a manner that reflects favorably at all times on the Products and the good name, goodwill, and reputation of Geokey;
- b. Create relationships with new Customers and maintain those relationships;
- c. maintain all credentials, licenses, certifications, and permits necessary to conduct its business relating to its obligations under this Agreement;
- d. initiate and attend sales calls and meetings with prospective and existing Customers;
- e. develop and execute a sales and marketing plan sufficient to fulfill its obligations under this Agreement;
- f. observe all directions and instructions given to it by Geokey in relation to the marketing, advertisement, and promotion of the products to the extent that such marketing materials, advertisements, or promotions refer to the products or otherwise use Geokey's intellectual property;
- g. promptly notify Geokey of any complaint or adverse claim about any Geokey product or its use of which PARTNER becomes aware;
- h. Communicate with Geokey consistently, and transmit all information related to this Agreement in a timely manner;

- i. Facilitate and support new Customer onboarding and installation as necessary and appropriate.
2. **Prohibited Acts.** Notwithstanding anything to the contrary in this agreement, neither PARTNER nor any of its personnel shall directly or indirectly:
 - a. make any representations, warranties, guarantees, indemnities, similar claims, or other commitments:
 - i. actually, apparently, or ostensibly on behalf of Geokey, or
 - ii. to any customer with respect to the Products, which representations, warranties, guarantees, indemnities, similar claims, or other commitments are additional to or inconsistent with any then-existing representations, warranties, guarantees, indemnities, similar claims, or other commitments in this agreement or any written documentation provided by Geokey to the customer or PARTNER;
 - b. engage in any unfair, anti-competitive, misleading, or deceptive practices respecting the Products, including any product disparagement;
 - c. separate any software or accessories sold, bundled, or packaged with any Product from such Product or sell, license, or distribute such software on a standalone basis, or remove, translate or modify the contents or documentation of or related to such software or accessories, including, without limitation, any Customer license agreements or warranty statements;
 - d. sell, market, advertise, promote, solicit the sale of, or offer to sell any goods that directly compete with the products of Geokey, except to the extent this restriction is prohibited by applicable law.

3. **Relationship of parties.**

- a. PARTNER is an independent contractor pursuant to this Agreement.
- b. Nothing in this Agreement creates any agency, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties or an employee/employer relationship. Neither party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any Customer or other third party.
- c. The operations of the PARTNER are subject to the sole control of PARTNER. All personnel of PARTNER are employees or representatives of the PARTNER and not of Geokey. Without limitation of the foregoing, PARTNER is solely responsible for, at its own expense:
 - i. providing such office space and facilities, and such personnel (and their training) as may be necessary to carry out its obligations under this Agreement;
 - ii. compensating all PARTNER personnel for any services rendered in connection with the performance of its obligations under this Agreement;
 - iii. covering all personnel under any applicable social benefit laws (including workers' compensation and applicable state disability insurance); and
 - iv. making any and all payroll deductions and contributions that may be required by law or otherwise with respect to the personnel.

- d. PARTNER shall be solely responsible for any and all costs or expenses that it may incur in the performance of its obligations hereunder.

4. Sales.

- a. All sales solicited by PARTNER from customers (“Sales”) are subject to approval, rejection or modification by Geokey. Without limiting the generality of Section 3, PARTNER shall have no authority to enter into any sales agreement on behalf of Geokey or to otherwise bind Geokey to sell or deliver any Products to Customer. PARTNER shall promptly notify Geokey with respect to all sales prospects, including forwarding to Geokey all Customer purchase orders, requests for quotation and sales inquiries. PARTNER shall prepare a sales contract for Geokey products following consultation with the Customer (“Sales Contract”).
- b. Geokey reserves the right, in its sole discretion, to:
 - i. accept, or decline to accept, any Sales Contract for Products received from any party whether or not solicited by PARTNER;
 - ii. cancel, terminate, or modify any Sales Contract previously accepted by Geokey;
 - or
 - iii. negotiate any terms and conditions of the Sale with Customer, including modifying the purchase price or payment terms.
- c. PARTNER acknowledges that Geokey's exercise of discretion may result in no Commission owed, or a reduction, or delay in the payment of Commission owed, to PARTNER under this Agreement.
- d. Geokey may, in its sole discretion:
 - i. discontinue the sale of the Products without advance written notice thereof;
 - ii. reduce or allocate its inventory of Products; and
 - iii. effect changes to any of the Products or parts/accessories thereto (except where continued availability is required by law).

5. Payments.

- a. PARTNER must follow the pricing guidelines that are found in *Exhibit A*, based on if the contract with a client is due to a Partner Opportunity or initiated by Geokey.
- b. PARTNER will be charged on **the 15th of each month.**
- c. The number of accounts will be tracked by Geokey in the web portal and Geokey will charge PARTNER accordingly.
- d. Geokey reserves the right to charge PARTNER interest on any overdue payments of one percent (1.00%) per month. If PARTNER fails to make payment within one hundred and twenty (120) days from the date of invoice, Geokey will be entitled to withdraw any allowances, discounts or other concessions granted to PARTNER and all outstanding demands shall become due immediately.
- e. PARTNER shall notify Geokey in writing of any dispute regarding any Monthly Licensing Payment (along with a reasonably detailed description of the dispute) within 15 business days from the PARTNER's receipt of such Monthly Licensing Payment. PARTNER will be deemed to have accepted all invoices pertaining the Monthly Licensing Fees for which Geokey does not receive timely notification of disputes. The parties shall seek to resolve all such disputes expeditiously and in good faith. Notwithstanding anything to the contrary,

the parties shall continue performing their obligations under this Agreement during any such dispute.

6. **Obligations of Geokey.**

During the Term of this Agreement, Geokey will:

- a. provide a Geokey representative to assist PARTNER in the execution of the Services. The Geokey representative will work with PARTNER and collect all information to properly onboard new Customers. The Geokey representative may direct PARTNER to possible leads. The Geokey representative will help assist on bids and contracts given to new Customers.
- b. Provide any information and support that Geokey usually makes available to its sales representatives and distributors regarding the marketing, advertising, promotion, and sale of Products under this Agreement.
- c. Send Client Opportunities to PARTNER when prospective clients desire to purchase Geokey licenses and services.

Intellectual Property. PARTNER acknowledges and agrees:

- d. any and all Geokey's intellectual property rights are the sole and exclusive property of Geokey or its licensors;
- e. PARTNER shall not acquire any ownership interest in any of Geokey's intellectual property rights under this Agreement;
- f. any goodwill derived from the use by PARTNER of Geokey's intellectual property rights inures to the benefit of Geokey or its licensors, as the case may be;
- g. if PARTNER acquires any intellectual property rights in or relating to any Product purchased under this Agreement (including any rights in any trademarks, derivative works or patent improvements relating thereto), by operation of law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Geokey or its licensors, as the case may be, without further action by either of the parties; and
- h. PARTNER shall use Geokey's intellectual property rights solely for the purposes of performing its obligations under this Agreement and only in accordance with this Agreement and the instructions of Geokey.
- i. Geokey hereby grants to PARTNER a non-exclusive, non-transferable, and non-sublicensable license to use Geokey's trademarks during the Term solely on or in connection with the marketing, promotion, advertising, and sale of the Products. PARTNER will promptly discontinue the display or use of any trademark or change the manner in which a trademark is displayed or used with regard to the Products when requested by Geokey.
- j. On expiration or earlier termination of this Agreement, PARTNER will immediately cease all display, advertising, promotion, and use of all of Geokey's trademarks and will not thereafter use, advertise, promote or display any trademark or any part thereof that is similar to or confusing with Geokey's trademarks or with any trademark associated with Geokey or any Product.

7. **Confidentiality.**

- a. From time to time during the Term, Geokey may disclose or make available to PARTNER information about its business affairs, goods and services, forecasts, confidential information, and materials comprising or relating to its intellectual property rights, trade secrets, third-party confidential information, and other sensitive or proprietary information, as well as the terms of this Agreement, in any form and whether or not marked, designated, or otherwise identified as "confidential" (collectively, "*Confidential Information*"). Confidential Information does not include information that, at the time of disclosure:
 - i. is or becomes generally available to and known by the public other than as a result of, directly or indirectly, any breach of this Section by the PARTNER;
 - ii. is or becomes available to the PARTNER on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information;
 - iii. was known by or in the possession of the PARTNER prior to being disclosed by Geokey or its authorized representative;
 - iv. was or is independently developed by the PARTNER without reference to or use of, in whole or in part, any of Geokey's Confidential Information; or
 - v. is required to be disclosed pursuant to applicable law.
- b. PARTNER shall, for the Term of this Agreement and for at least three (3) years from the expiration or other termination of this Agreement, except in cases of trade secrets, in which case the following agreements shall be indefinite:
 - i. protect and safeguard the confidentiality of Confidential Information with at least the same degree of care as the PARTNER would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care;
 - ii. not use Geokey's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and
 - iii. not disclose any such Confidential Information to any person, except to Geokey's representatives who need to know the Confidential Information to assist the PARTNER, or act on its behalf, to exercise its rights or perform its obligations under this Agreement.

PARTNER shall be responsible for any breach of this Section caused by any of its personnel or representatives. On the expiration or earlier termination of this Agreement or at any time during or after the Term, at Geokey's written request, the PARTNER and its representatives shall promptly return or destroy all Confidential Information and copies thereof that it has received under this Agreement.

8. **Indemnification.** PARTNER shall indemnify, hold harmless, and defend Geokey and its officers, directors, managers, shareholders, members, partners, employees, agents, affiliates, successors, and permitted assigns (collectively, "*Indemnified party*") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorney fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Indemnified party (collectively, "*Losses*"), relating to, arising out of or resulting from any third-party claim alleging:

- a. material breach or non-fulfillment of any representation, warranty, or covenant of this Agreement by PARTNER or PARTNER's personnel or representatives;
- b. any negligent or more culpable act or omission of PARTNER or its personnel (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement; or
- c. any bodily injury, death of any person or damage to real or tangible personal property caused by the negligent acts or omissions of PARTNER or its representatives or personnel.

9. Limitation of Liability.

- a. NO LIABILITY FOR CONSEQUENTIAL OR INDIRECT DAMAGES. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, LIABILITY FOR INDEMNIFICATION, LIABILITY FOR BREACH OF CONFIDENTIALITY, OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL GEOKEY OR ITS REPRESENTATIVES BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT GEOKEY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- b. MAXIMUM LIABILITY FOR DIRECT DAMAGES. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, IN NO EVENT SHALL GEOKEY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS ACCRUED BUT NOT YET PAID TO PARTNER PURSUANT TO THIS AGREEMENT.

10. Term/Termination.

- a. Initial Term. The term of this Agreement commences on the Effective Date and continues for one year, unless and until terminated as provided under this Agreement (the "*Initial Term*").
- b. Renewal Term. Upon expiration of the Initial Term, this Agreement automatically renews for additional successive one year terms unless and until either party provides written notice of nonrenewal at least 30 days prior to the end of the then-current term (each a "*Renewal Term*" and together with the Initial Term, the "*Term*"), or unless and until sooner terminated as provided under this Agreement.
- c. Termination for Convenience. Geokey may terminate this Agreement for any or no reason at any time, with no notice to the PARTNER. PARTNER shall give Geokey no less than

thirty (30) days' notice of intent to terminate, during which notice period PARTNER shall continue to perform their obligations under this Agreement.

d. Effect of Expiration or Termination. Expiration or termination of the Term will not affect any rights or obligations that:

- i. are to survive the expiration or earlier termination of this Agreement; and
- ii. were incurred by the parties prior to such expiration or earlier termination.

Upon the expiration or earlier termination of this Agreement, PARTNER shall promptly:

- iii. cease to represent itself as Geokey's authorized sales representative with respect to the Products, and shall otherwise desist from all conduct or representations that might lead the public to believe that PARTNER is authorized by Geokey to market, promote or solicit sales of the Products;
- iv. return to Geokey or destroy all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on Geokey's Confidential Information;
- v. permanently erase all of Geokey's Confidential Information from its computer systems, except for copies that are maintained as archive copies on its disaster recovery and/or information technology backup systems. PARTNER shall destroy any such copies upon the normal expiration of its backup files]; and
- vi. certify to Geokey that it has complied with the requirements of this clause.

11. General

- a. Entire Agreement. This Agreement, together with all exhibits, schedules, and incorporated documents, constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior written and oral agreements between the parties regarding the subject matter of this Agreement.
- b. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability does not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- c. Notices. Any notice, demand, request or written communication which may be required to be given by either party to or upon the other under this contract shall be given by either serving it upon the other personally or delivering or mailing it by overnight courier or registered mail, or via email, to a party at its address listed on the signature page hereto.
- d. Amendment and Modification; Waiver. No amendment to this Agreement is effective unless it is in writing, identified as an amendment to this Agreement, and signed by each party. No waiver under this Agreement is effective unless it is in writing and signed by the party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated, and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege or condition arising from this Agreement: (a) any failure or delay in exercising any right, remedy, power or privilege or in enforcing any condition under this Agreement; or (b) any act, omission or course of dealing between the parties.
- e. Assignment. Neither party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party. For purposes of this Agreement, the following shall constitute an assignment: (i) a change in ownership of

more than 50% of the voting power of a party, or (ii) a sale of all or substantially all of the assets of a party. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves the assigning or delegating party of any of its obligations under this Agreement.

- f. Successors and Assigns. This Agreement is binding on and inures to the benefit of the parties and their respective permitted successors and permitted assigns.
- g. Choice of Law. This Agreement shall be governed by the laws of Nebraska without regard to Nebraska's conflicts of law rules, and the parties agree that any actions, litigations, or proceeding hereunder shall be commenced solely in Lancaster County, Nebraska or Nebraska state courts or the U.S. District Court for the District of Nebraska.
- h. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (including electronic signatures such as DocuSign) is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(end of agreement)

Exhibit A

| Recommended MSRP License Fee | |
|-------------------------------------|----------------------|
| 1 Year Contract | \$22.00/ door/ month |
| 3 Year Contract | \$21.00/ door/ month |
| 5 Year Contract | \$20.00/ door/ month |

*We will quote out large enterprise projects with over 50 doors for you. You will need to contact sales@geokeyaccess.com or your Geokey Representative for pricing.