

# ONLINE TERMS AND CONDITIONS FOR ELIGIBLE PROGRAM PARTICIPANTS

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Whistle Systems, Inc (“Whistle,” “we,” or “us”) provides tools to enable sales representatives, authorized dealers, associates and end users to obtain access to and participate in Client sponsored incentive programs (“Incentive Programs”) at the URL (the “Site”) or Application (“App”) and we may provide the ability to use certain functionalities of the Site/App or provide other services of various kinds (the “Services”). The Site/App and Services are made available to you only under the following terms and conditions (the “Terms”).

PLEASE READ THE TERMS CAREFULLY. BY USING THE SERVICES, YOU ACKNOWLEDGE AND REPRESENT THAT (A) YOU HAVE READ THESE TERMS, (B) UNDERSTAND THEM, (C) AGREE TO BE BOUND BY THEM, AND (D) YOU ARE AT LEAST 18 YEARS OLD. NOTE THAT YOU MAY NOT USE THE SERVICES UNLESS YOUR ARE AT LEAST 18 YEARS OLD. IF YOU DO NOT AGREE TO ANY OF THE TERMS BELOW, WE ARE UNWILLING TO GRANT YOU ACCESS TO THE SITE/APP OR THE SERVICES.

1. ACCESS TO OUR ONLINE SERVICES AND TOOLS
2. Access to Features of Online Services For so long as you agree to these Terms and abide by them, you may use the Site/App and the Services.
3. General Restrictions on Use

The rights granted to you by these Terms will remain in force only for so long as these Terms remain in effect. You may not resell or sublicense access to the Service to any third-party. You may use the Site/App solely for the purposes of participating in Incentive Programs, as identified below. You further agree not to combine or integrate the Service with hardware, software or other technology or materials not provided by us. You may not, directly or indirectly, modify or create any derivative product based on the Site/App or the Service. You may not, directly or indirectly, decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any component of the Site/App or the Services is compiled or interpreted, and nothing in these Terms should be interpreted as granting you any right to obtain or use source code. You agree not to use the Services or the Site/App to: (a) violate any local, state, national or international law; (b) stalk, harass or harm another individual; (c) collect or store personal data about other users; (d) impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity; or (e) interfere with or disrupt the Services or servers or networks connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services. Without our written consent, you may not (i) use any high volume, automated, or electronic means to access the Services (including, without limitation, robots, spiders or scripts); or (ii) frame the Site/App, place pop-up windows over its pages, or otherwise

affect the display of its pages. You promise that any information that you voluntarily provide to us will be true, accurate, complete and current.

## **Incentive Programs**

From time to time, we may permit you to register for certain Incentive Programs sponsored by third party manufacturers or distributors (“Third Party Manufacturers/Distributors”) through the Site/App. Through such Incentive Programs you may register to obtain rewards or incentives for sales completed by you for certain Third-Party Manufacturer/Distributor products or offerings. By registering for such Incentive Programs, you agree to abide by the rules applicable to such Incentive Programs that may be posted from time to time in connection with a particular Incentive Program (the “Incentive Program Rules”). As part of such Incentive Programs, you agree to submit all information requested by us for purposes of tracking, verifying and fulfilling our obligations under such Incentive Programs. You shall be responsible for all information submitted by you and agree to obtain all rights and approvals necessary to submit such information to us. Pursuant to our privacy policy for registered sales representatives, available at << Whistle Privacy Policy>> we shall own any transactional information that you provide to us and you hereby assign to Company all right, title, and interest in and to such information. We may use such information for any purposes, including determining, in our sole discretion, whether you have fulfilled the requirements necessary to obtain any payment incentives offered by Third Party Manufacturers/Distributors through such Incentive Programs.

We will make any payments to which we determine you are entitled within thirty (30) days after completion of our verification of transactions that you have submitted for payment, but in no event longer than sixty (60) days after you submit transactional information unless otherwise specified by us or in the Incentive Program Rules. All such payments shall be made to you via the Whistle App Digital Wallet. All such payments shall be contingent upon: (a) receipt of true and accurate information provided by you; and (b) receipt of appropriate funds from the relevant Third Party Manufacturer/Distributor for disbursement.

## **Use of Third-Party Offerings**

You may be able to access website, content or services provided by third-parties through links that are made available on the Site/App. We refer to all such websites, content, services and products as “Third-Party Offerings.” For example, we may permit third parties to advertise their products and services on the Site/App, and those advertisements may contain links to the website(s) of the advertisers. Unless we otherwise inform you on the Site/App, your use of such Third-Party Offerings is not ordinarily required in order to access and/or use the Services. If you elect to use such Third-Party Offerings, you understand that your use of them will be subject to any terms and conditions required by the applicable third-party provider(s). You understand that we are not the provider of, and are not responsible for, any such Third-Party Offerings and that these Terms do not themselves grant you any rights to access, use or purchase any Third-Party Offerings.

## **Ownership**

As between you and us, we and/or our clients, as applicable, retain all right, title and interest in and to the Site/App, the Services, and all related intellectual property rights. Unless you first obtain the copyright owner's prior written consent, you may not copy, distribute, publicly perform, publicly display, digitally perform (in the case of sound recordings), or create derivative works from any copyrighted work made available or accessible via the Site/App or the Services.

Your feedback is welcome and encouraged. You agree, however, that (a) by submitting unsolicited ideas to us, you automatically forfeit your right to any intellectual property rights in those ideas; and (b) unsolicited ideas submitted to us or any of our employees or representatives automatically become our property.

## **Audit Requirements**

You agree to comply with the audit requirements as outlined in the Program documentation. These requirements are subject to change from time to time at the full discretion of the Whistle.

## **Authorized Dealer and Registrants**

In order to be eligible to register as a Whistle Qualified Dealer the following criteria must be met; (a) Must be a licensed reseller of goods in good standing for one or more of Whistle' active customers; (b) No dealer or its principal's may ever have been charged with fraud or had to repay Whistle or any of its manufacturer customers, any trade promotion funds (spiffs, co-op, rebates, etc.) that were appropriated in any manner that contravened the policy of that promotion; (c) The dealer principle who registers for the process must have the right to bind the dealership; (d) have agreed to the terms and conditions set forth in this policy.

1. DISCLAIMERS, LIMITATIONS AND EXCLUSIONS OF LIABILITY
2. No Warranties

THE SERVICE, THE SITE/APP AND ALL INFORMATION, CONTENT, MATERIALS AND SERVICES RELATED TO THE FOREGOING ARE PROVIDED "AS IS." TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WE AND OUR AFFILIATES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, SYSTEM INTEGRATION AND ACCURACY OF DATA. APPLICABLE LAW MAY NOT ALLOW THE EXCLUSION OF CERTAIN IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. WE AND OUR AFFILIATES DO NOT WARRANT THAT YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED, ERROR-FREE OR VIRUS FREE. THE SUBMISSION OF ANY PERSONAL CONTENT AND THE DOWNLOAD OR UPLOAD OF ANY MATERIAL THROUGH OUR SERVICE AND/OR SITE/APP IS DONE AT YOUR OWN DISCRETION AND RISK. YOU WILL BE

SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT MAY RESULT FROM THE DOWNLOAD OR UPLOAD OF ANY SUCH MATERIAL OR FROM RELIANCE UPON THE SERVICES, AND YOU ARE ADVISED TO MAINTAIN OFFLINE BACKUP COPIES OF ALL INFORMATION SUBMITTED BY YOU (AS ALLOWED BY YOUR EMPLOYER). WE ARE NOT THE PROVIDER OF, AND MAKE NO WARRANTIES WITH RESPECT TO, ANY THIRD-PARTY OFFERINGS. WE DO NOT GUARANTEE THE SECURITY OF ANY INFORMATION TRANSMITTED TO OR FROM THE SITE/APP; AND YOU AGREE TO ASSUME THE SECURITY RISK FOR ANY INFORMATION YOU PROVIDE USING THE SERVICE.

NO REPRESENTATION OR WARRANTY IS MADE THAT THE SERVICES PROVIDE COMPREHENSIVE OR ACCURATE INFORMATION. WE RESERVE THE RIGHT TO FILTER, MODIFY OR REMOVE CONTENT, MEDIA, INFORMATION OR ANY OTHER MATERIAL FROM THE SERVICES AND FROM THE OUTPUT OF THE SERVICES. YOU UNDERSTAND THAT WE HAVE DEVELOPED OUR TECHNOLOGIES TO FIND INFORMATION THAT WE BELIEVE WILL BE MOST RELEVANT AND INTERESTING TO YOU. ACCORDINGLY, WE MAY IN OUR DISCRETION FILTER OUT LINKS TO CONTENT AGGREGATORS. SEARCH ENGINES OR OTHER ONLINE SERVICES WHOSE TECHNOLOGIES AND SERVICES, IN OUR OPINION, ARE INCONSISTENT WITH THESE OBJECTIVES.

## **Limitation Of Liability**

USE OF OUR SERVICE, AND THE SITE/APP IS AT YOUR OWN RISK. IN NO EVENT WILL WE OR OUR AFFILIATES OR ANY THIRD-PARTY MANUFACTURERS, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES IN CONNECTION WITH THESE TERMS, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE AND EVEN IF WE WERE ADVISED THAT SUCH DAMAGES WERE LIKELY OR POSSIBLE. IN NO EVENT WILL OUR AGGREGATE LIABILITY TO YOU FOR ANY AND ALL CLAIMS ARISING IN CONNECTION WITH THESE TERMS EXCEED ONE HUNDRED DOLLARS (U.S. \$100.00). YOU ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS AN ESSENTIAL TERM BETWEEN YOU AND US RELATING TO THE PROVISION OF THE SITE/APP, AND THE SERVICE, AND WE WOULD NOT PROVIDE THE SITE/APP OR SERVICE TO YOU WITHOUT THIS LIMITATION.

## **Indemnification**

YOU AGREE TO INDEMNIFY, HOLD HARMLESS AND, AT OUR OPTION, DEFEND OUR COMPANY (INCLUDING OUR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, SUPPLIERS AND ANY THIRD-PARTY INFORMATION PROVIDERS) FROM AND AGAINST ALL DAMAGES, LIABILITIES, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, RESULTING FROM ANY VIOLATION OF THESE TERMS.

### **III. TERM AND TERMINATION**

These Terms will become effective and binding when you use the Site/App or Service, when you voluntarily provide any information about yourself to us, or when you indicate your agreement by following any instructions we place on the Site/App (such as buttons labeled “I Agree”). You do not need to inform us if you wish to stop using the Site/App or Service. We reserve the right to terminate these Terms and your access to the Site/App and the Service at any time without notice. Your rights under these Terms will automatically and immediately terminate if you fail to comply with your promises and obligations stated in these Terms. The provisions of sections I.B, I.D, II, III, and IV will survive the termination of these Terms.

## **MISCELLANEOUS MATTERS**

### **Privacy**

In the course of accessing and/or using the Site/App, and the Services, we may obtain information about you or you may be required to provide certain personal information to us. All uses of your personal information will be treated in accordance with our Privacy Policy, which forms an integral part of these Terms. If you use the Services, or the Site/App, you are accepting the terms and conditions of our Privacy Policy, as may be amended from time to time. If you do not agree to have your information used in any of the ways described in the Privacy Policy, you must discontinue use of the Site/App and the Services.

### **Copyrights**

If you believe your copyright has been violated by works or Third-Party Offerings accessible on the Site/App or through the Service, please contact us by email at [support@Whistle.com](mailto:support@Whistle.com).

### **Modifications to Terms**

We may change these Terms from time to time. Any such changes will become effective when posted on the Site/App. If you object to any such changes, your sole recourse will be to cease using the Site/App, and the Services. Continued use of the Site/App, and the Services following posting of any such changes will indicate your acknowledgement of such changes and your agreement to be bound by the revised Terms, inclusive of such changes. In addition, certain features of the Services may be subject to additional terms of use. By using such features, or any part thereof, you agree to be bound by the additional terms of use applicable to such features. In the event that any of the additional terms of use governing such area conflict with these Terms, the additional terms will govern.

### **Modifications to Services**

We reserve the right to modify the Site/App and/or Services at any time without notice. If you object to any changes to the Site/App or Services, your sole recourse will be to cease using them. Continued use of the Site/App or Services following posting of any such changes will indicate your acknowledgement of such changes and satisfaction with

the Services as so modified. We also reserve the right to discontinue the Site/App and/or Services at any time without notice. We will not be liable to you or any third-party should we exercise our right to modify or discontinue the Site/App or the Services.

## **General Terms**

You agree to comply with all laws, rules and regulations that apply to your use of the Site/App, and the Services. Any delay or failure by us to exercise or enforce any right or provision of these terms will not constitute a waiver of such right or provision. If any provision of these terms is found by a court of competent jurisdiction to be invalid, you agree that the court should endeavor to give effect to the intentions reflected in the invalid provision, to the fullest extent permitted by law, and the other provisions of these Terms shall remain in full force and effect. You agree that any claim or cause of action related to the Site/App, the Services and/or these Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred. These Terms constitute the entire agreement between you and us with regard to the matters described above.

## **Governing Law**

All Whistle Site/Apps and Services are controlled, operated and administered by Whistle from its offices within the United States. Whistle makes no representation or warranty that a Whistle Site/App or any of the Services are appropriate or available for use at any locations outside the U.S.A. If you access a Whistle Site/App from outside the U.S.A., you are responsible for compliance with all applicable laws. You may not export any of the Content accessible through a Whistle Site/App in violation of applicable export laws and regulations. These Terms and Conditions will be interpreted, construed and governed by the laws in force in the U.S.A., without reference to its conflict of laws principles. By accessing the Site/App or using the Services, you agree to submit to the jurisdiction of the courts of the State of Delaware and to waive any objections based upon venue. The United Nations Convention on Contracts for the International Sale of Goods does not apply to these Terms and Conditions.

### More Information

For more information about the terms and conditions of use, or to request permission to reproduce or distribute material on this Site/App, please contact [support@Whistle Systems, Inc](mailto:support@WhistleSystems.com) or in writing to Whistle Systems, Inc 3101 A Sutton Blvd, Maplewood, MO 63143

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