

TERMS OF MATCHPRODUCT COMMISSION AGREEMENT

This MatchProduct Commission Agreement (“Agreement”) represents the Agreement between you as a registered user of MatchProduct (“Seller”) and Jacob Enterprises, Inc., t/d/b/a MatchProduct (“MatchProduct”). Seller, intending to be legally bound, agrees to abide by all of the terms and condition contained in this Agreement.

1. Product listing requirements. Seller represents and warrants that the products listed by Seller (“Products”) are in full compliance with MatchProduct’s requirements set forth below:

- o All Products are finished goods (inventory ready for sale or finished factory samples ready to be ordered and supplied to a buyer).
- o All Products are tangible goods and are not an invention concept, product in development, business idea, service or method of doing business.
- o Products shall not be counterfeit or stolen items.
- o Products shall not infringe upon any third party's intellectual property rights.
- o Products shall not violate any applicable law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination or false advertising).
- o Products shall not contain items that have been identified by the U.S. Consumer Products Safety Commission (CPSC) as hazardous to consumers and therefore subject to a recall.
- o Products shall not be defamatory, be trade libelous, be unlawfully threatening, be unlawfully harassing, impersonate or intimidate any person (including MatchProduct staff or other users), or falsely state or otherwise misrepresent your affiliation with any person, through for example, the use of similar email address, nicknames, or creation of false account(s) or any other method or device.
- o Products shall not be obscene, pornographic, sexually explicit or illegal in any respect.
- o Products shall not host images not part of a listing or link to or reference sellers website or phone number.

Seller represents and warrants to MatchProduct that it is the owner of the Product and any associated Intellectual Property Rights, and that it has the authority to grant MatchProduct the right to offer Product for sale or license.

2. Services. MatchProduct acts as a business-to-business marketplace to allow users, including Seller, to offer for sale, license and buy products listed on MatchProduct’s site. Seller agrees that MatchProduct is a venue and as such is not responsible or liable for any content, data, text, usernames, images, photographs, or items posted by Seller, other users, or outside parties on MatchProduct. Seller agrees to use MatchProduct at Seller’s own risk.

3. Ownership of Product. Nothing in this Agreement is intended to change legal title to Products to MatchProduct.

4. Compensation. As compensation for MatchProduct’s services Seller agrees to pay MatchProduct a commission in the form of a broker fee (hereinafter a “Broker Fee”) for any Product Revenue received by Seller pursuant to any agreement, written or oral, between Seller and a third party relating to Products to the extent that the third party was introduced to or made aware of Seller or the Product as a result of the MatchProduct service or by an agent or representative of MatchProduct (collectively, “MatchProduct-Introduced Buyers”). Seller acknowledges and agrees that its obligation to pay Broker Fees hereunder shall apply to Product Revenues payable to Seller by MatchProduct-Introduced Buyers irrespective of whether such Product Revenues were generated directly using the MatchProduct service or indirectly through some other means or instrumentality, including, without limitation, direct contact between Seller and MatchProduct-Introduced Buyers. **No Broker’s Fee shall be due for any Product Revenue received by Client pursuant to an agreement with a third party as a result of Client’s sole efforts and without any assistance of MatchProduct or an agent or representative of MatchProduct.** “Product Revenue” as used herein shall be defined based upon the type of agreement executed by Seller and a third party introduced by MatchProduct, as listed below.

A. **Wholesale or Distribution Agreement** – Seller agrees to pay MatchProduct **five percent (5%)** of any Wholesale Net Revenue received for any sales of Products to MatchProduct-Introduced Buyers. “Wholesale Net Revenue” shall mean gross revenue received by Seller from the sale of Products less any rebates, returns and allowances attributable to such Products. Seller and MatchProduct further agree that Seller will forward any Broker’s Fees due to MatchProduct along with accompanying statements and reports within fifteen (15) business days of Seller’s receipt of payment.

B. **License or Asset Sale Agreement** - Seller agrees to pay MatchProduct **twenty percent (20%)** of any gross revenue received for (i) licensing/royalty revenue from the license of any intellectual property rights to

MatchProduct-Introduced Buyers including, without limitation, patents, trademarks, copyrights and trade secrets, relating to any Products; and (ii) sales revenue from the assignment or other transfer of ownership of any physical assets or intellectual property rights, including, without limitation, tooling, machinery, patent rights, trademark rights, copyrights and trade secret rights, relating to any Products to MatchProduct-Introduced Buyers. For License or Asset Sale Agreements, Seller hereby appoints MatchProduct as its agent to assist Seller with the negotiation and execution of any such License or Asset Sale Agreements, with Seller having final approval of the terms of any such License or Asset Sale Agreements. Notwithstanding the foregoing, Seller and MatchProduct agree that both Seller and MatchProduct shall be parties to all such License or Asset Sale Agreements. Seller and MatchProduct further agree that MatchProduct shall, in all such License or Asset Sale Agreements, be named as Seller's agent for purposes of collecting and receiving on behalf of Seller any Product Revenue due under such Agreements, and that MatchProduct shall forward to Seller the Product Revenue collected and received, less any Broker's Fees due to MatchProduct along with accompanying royalty statements and reports within fifteen (15) business days of MatchProduct's receipt of payment. Seller and MatchProduct acknowledge and agree that MatchProduct is to be a party to such License or Asset Sale Agreements only in its capacity as an agent for Seller, and that, as such, MatchProduct shall not be liable for any performance required by Seller under any such License or Asset Sale Agreements. Seller and MatchProduct agree that Seller shall have the option to utilize Seller's legal counsel for contract review and consultation and Seller shall be solely responsible for any legal fees associated with obtaining Seller's own counsel.

Seller hereby grants MatchProduct the right to review Seller's books and sales records, pertaining only to the product listed with MatchProduct, once per year upon prior written notice to determine whether all commissions have been properly reported and paid pursuant to the terms of this Agreement.

5. Warranty, Disclaimer and Limitation of Liability. MATCHPRODUCT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT. IN NO EVENT SHALL MATCHPRODUCT BE LIABLE TO SELLER OR ANY OTHER PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFIT OR GOODWILL, FOR ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR ITS SUBJECT MATTER, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT OR OTHERWISE EVEN IF MATCHPRODUCT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6. Indemnification. Seller hereby agrees to indemnify and hold harmless MatchProduct and its directors, officers, and employees from and against any claims, damages, costs, expenses (including reasonable attorney's fees), litigation or other liabilities of any kind or nature arising out of or related to (i) any claim that Products infringe a patent, copyright, trade secret, or similar proprietary right of a third party, (ii) any products liability claims, including claims of death and serious injury, arising out of the Products, (iii) any negligence or willful misconduct of Seller or any of its employees or agents relating to the Products or their distribution through the MatchProduct services, or (iv) any breach of this Agreement by Seller.

7. This Agreement represents the entire agreement executed by the parties relating to the subject hereof, superseding all prior agreements and understandings, whether written or oral. In no event shall this Agreement or any provision hereof be deemed to be amended, modified or changed in any manner whatsoever (including by reason of trade usage or course of dealing) except and unless such amendment, modification or change is set forth in a writing executed by Seller and MatchProduct. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its or any other jurisdiction's conflict of law principles. Any controversy arising out of or relating to this Agreement shall be determined by arbitration in the City of Pittsburgh, Pennsylvania in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA) using a single arbitrator who is an experienced commercial litigator with no relationship, present or past, with either of the parties, admitted before the bar of any state of the United States. In the event that the parties cannot mutually agree on a single arbitrator, each shall appoint a person who would otherwise be qualified to be an arbitrator hereunder, the two of whom shall select the single arbitrator. All parties agree to be bound by the results of any arbitration; judgment upon the award so rendered may be entered and enforced in any court of competent jurisdiction.

8. Severability. To the extent that any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereto shall remain in full force and effect.

9. Termination. This Agreement will terminate when client no longer has an active account on MatchProduct.com. The provisions of Sections 4, 5, 6, and 7 hereof shall survive any termination hereof.