



BBB NATIONAL PROGRAMS PRP PRIVACY PROGRAM PARTICIPATION AGREEMENT

1. **The Agreement.** This Participation Agreement (“Agreement”) is between BBB National Programs, Inc. (“BBB National Programs”), a Delaware nonprofit corporation, and [ENTER PARTICIPANT LEGAL NAME], a [ENTER STATE OF INCORPORATION] [ENTER TYPE OF ORGANIZATION], and any subsidiaries or affiliates listed in the current Covered Entities Addendum to this Agreement (collectively, “PARTICIPANT”) to participate in the **BBB National Programs PRP Privacy Program** (“Program”). This Agreement shall take effect upon [ENTER DATE] (“Effective Date”).

2. **Participation Requirements.** As of the date of this Agreement, BBB National Programs is an approved Accountability Agent in good standing for the Asia Pacific Economic Cooperation’s (“APEC”) Privacy Recognition for Processor (“PRP”) System. As an approved Accountability Agent, BBB National Programs may certify PARTICIPANT against the APEC PRP System Program Requirements (“Program Requirements”) as approved for such certification. The scope of this certification will be reflected on the publicly facing Compliance Directory currently found here <http://PRPs.org/compliance-directory/PRP-system/> as well as the landing page accessible through the BBB National Programs PRP Privacy Program Certification Icon (“Certification Icon”). Participation in the Program is limited to the terms of participation in this Program alone. All other BBB National Programs’ self-regulatory, co-regulatory, National Partner, pledge, dispute resolution, or other programs are subject to their own terms of participation.

- A. PARTICIPANT acknowledges receipt of the following, which are incorporated into this Agreement by reference and are appended hereto:
- i. APEC PRP Program Requirements (“Program Requirements”); and
 - ii. PRP Program Dispute Resolution Procedure Rules (“Procedure Rules”).

- B. PARTICIPANT represents and warrants that:

- i. the individual signing this Agreement on behalf of PARTICIPANT has the authority to bind PARTICIPANT to the terms and conditions of this Agreement;
- ii. PARTICIPANT is headquartered in the United States and is under the jurisdiction of the Federal Trade Commission (“FTC”);
- iii. PARTICIPANT will be truthful and accurate when providing evidence of compliance with the Program Requirements;

- C. Within PARTICIPANT’s scope of certification, PARTICIPANT further represents and warrants that:

- i. PARTICIPANT will maintain compliance with the Program Requirements and continue to comply with the Program Requirements for the term of participation, as they now exist as of the Effective Date or may be modified and agreed to by the parties in a subsequent amendment;
- ii. changes to any publicly facing statements of privacy policies and practices (collectively, “Privacy Statements”) or other approved policies must first be notified in writing to and approved by BBB National Programs;
- iii. upon successful completion of the certification process, and at all times that PARTICIPANT’s certification remains active in good standing, PARTICIPANT will display the Certification Icon on all approved Privacy Statements;
- iv. all subsidiaries or affiliates covered under this Agreement will be subject to policies and Privacy Statements which will be reviewed and approved by BBB National Programs; and

- v. PARTICIPANT shall notify BBB National Programs, in writing, of any proposed changes to PARTICIPANT's subsidiaries or affiliates operating under BBB National Programs approved policies and Privacy Statements to be covered under the Agreement no less than ten (10) days in advance of the proposed change in coverage.

3. Right to Display Certification Icon: PARTICIPANT acknowledges BBB National Programs' sole ownership of the Certification Icon and agrees not to challenge or interfere, directly or indirectly, with BBB National Programs' ownership thereof. PARTICIPANT will not assert or seek any rights in or protection of any kind, including registration of the Certification Icon, other than those rights granted by BBB National Programs under this Agreement.

A. Grant

- i. During the Term of this Agreement, BBB National Programs grants PARTICIPANT a revocable, nonexclusive, non-transferable, worldwide, fully paid license and right to display the Certification Icon solely on Privacy Statements governed by the privacy policies approved by BBB National Programs as part of this certification. PARTICIPANT accepts such grant, subject to the terms and conditions set forth in this Agreement ("Grant").
- ii. PARTICIPANT agrees that this Grant does not constitute an endorsement of PARTICIPANT's products or services. PARTICIPANT may not sublicense, transfer, or assign the right to display the Certification Icon. PARTICIPANT may provide access and use of the Certification Icon on PARTICIPANT's behalf to web hosting service providers and contractors to display and make available the Certification Icon on PARTICIPANT's approved Privacy Statements within the scope of this certification.
- iii. PARTICIPANT understands that if it is merged, acquired by, or consolidated with another company, it must inform BBB National Programs within 30 days of the effective date. BBB National Programs will then review the circumstances of the merger, acquisition, or consolidation, to determine at its sole discretion whether PARTICIPANT must re-qualify to display the Certification Icon.

B. Right of Publicity

- i. BBB National Programs may refer to or list PARTICIPANT as a BBB National Programs-certified participant in the APEC PRP System in marketing materials and regulatory filings, and in response to inquiries by the U.S. Department of Commerce, FTC, or other appropriate government agencies.

4. Dispute Resolution Procedure Requirements. As a condition of its approval as a PRP Accountability Agent, BBB National Programs administers a PRP Dispute Resolution Procedure ("the Procedure") to address complaints brought by individuals alleging that a participating organization has failed to comply with the requirements of the PRP System Program Requirements. The Procedure is governed by the PRP Dispute Resolution Procedure Rules ("Procedure Rules") posted on the BBB National Programs website. BBB National Programs may in its reasonable discretion, upon thirty (30) days prior notice to PARTICIPANT, amend or update the Procedure Rules. Such notice shall be provided by electronic mail to PARTICIPANT's primary contact identified in section 14 of this Agreement.

5. Participation in the Dispute Resolution Procedure. If PARTICIPANT is the subject of a complaint submitted by any party to BBB National Programs alleging a violation of the PRP Program Requirements, PARTICIPANT agrees to participate in the Procedure in accordance with the Procedure Rules. PARTICIPANT further agrees that in the event of PARTICIPANT's non-compliance with the Procedure Rules, or with BBB National Programs' final determination of a complaint, BBB National Programs may take enforcement action, which may include reporting PARTICIPANT's non-compliance to the FTC or other appropriate government agency.

6. Termination. If BBB National Programs determines that PARTICIPANT has failed to comply with the Agreement, BBB National Programs may terminate this Agreement unless PARTICIPANT cures such non-compliance within fifteen (15) business days of its receipt of written notice from BBB National Programs as provided by electronic mail to PARTICIPANT's primary contact listed in BBB National Programs records pursuant to section 14 of this Agreement. Pursuant to this notice, BBB National Programs shall advise PARTICIPANT of the terms of this Agreement with which it believes PARTICIPANT is no longer in compliance. BBB National Programs reserves the right to report PARTICIPANT's non-compliance to the FTC or other appropriate government agency.

Upon notice from BBB National Programs, PARTICIPANT will immediately remove the Certification Icon from any Privacy Statement out of scope PARTICIPANT's certification.

7. Fees and Costs. PARTICIPANT agrees to pay BBB National Programs the following fees and costs for its participation in the Program and the Procedure:

- A. An annual contract fee in accordance with the PRP Privacy Program Fee posted on the BBB National Programs website on the date that this Agreement is executed by PARTICIPANT or is automatically renewed. The contract fee is assessed annually on the last day of the calendar month in which PARTICIPANT is fully certified under the Program ("Initial Certification Date").
- B. All amounts due under this Agreement shall be invoiced to PARTICIPANT by BBB National Programs and paid within thirty (30) days after receipt. BBB National Programs reserves the right to adjust the fees and costs upon (30) thirty days' notice.

8. Limitation of Liability. The maximum aggregate liability of BBB National Programs for all claims brought by PARTICIPANT for breach of this Agreement, regardless of the form or cause of action, shall be BBB National Programs' gross revenues from fees paid by PARTICIPANT under this Agreement.

9. Indemnification. PARTICIPANT shall indemnify, defend, save and hold harmless BBB National Programs and its subsidiaries and affiliated entities, assigns and their respective directors, officers, employees, independent contractors, volunteers, and agents (collectively, the "Indemnified Parties") from any and all liability, claims, costs, actions, judgments, obligations, losses, penalties, damages, or expenses (including attorney's fees and costs) imposed on, incurred by or asserted against any of the Indemnified Parties arising out of or related to the Agreement that may be sustained by any breach or failure on the part of PARTICIPANT to comply with the terms of this Agreement or any obligations pursuant to this Agreement and such third-party claim would not have arisen but for any breach or failure of the PARTICIPANT to comply with the terms or obligations of this Agreement. PARTICIPANT agrees to pay BBB National Programs reasonable fees and expenses to reimburse BBB National Programs for its costs (including legal counsel fees and a reasonable estimate of its time) in preparing for, producing documents for, or testifying in any third party legal proceeding relating to the PARTICIPANT and PARTICIPANT's participation in the Program to which BBB National Programs is a witness. It is understood and agreed that this indemnification provision shall survive the termination of the Agreement.

10. Term.

- A. The first term of this Agreement shall be from the Effective Date until one year after the Initial Certification Date. This Agreement shall automatically renew for successive one-year terms thereafter unless terminated by either party. This Agreement may be terminated by either party upon thirty (30) days' written notice.
- B. The expiration or termination of this Agreement shall not relieve either party of any obligations vested prior to the expiration or termination. Specifically, BBB National Programs will continue processing to completion outstanding privacy complaints initiated against PARTICIPANT during the term of this Agreement. PARTICIPANT agrees to cooperate with BBB National Programs in resolving such complaints and further agrees to timely pay BBB National Programs any outstanding fees that may be incurred as a result.

11. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any prior agreements, understandings, and obligations between the parties.

12. Assignment. PARTICIPANT may not assign or transfer, directly or indirectly, any of its rights or delegate any of its duties under this Agreement without the prior written consent of BBB National Programs.

13. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of Delaware without regard to its conflict of laws provisions.

14. Survival. The rights and obligations contained in Sections 3-5, 7-9, 10(B), 11-19 will survive any termination or expiration of this Agreement.

15. Contact. PARTICIPANT designates the following primary contact, who shall receive all notices and other communications from BBB National Programs by electronic mail regarding PARTICIPANT's participation in the Procedure:

Name and Title:

Email:

PARTICIPANT agrees to keep this contact current. Such contact may be updated at by written notice via electronic mail to BBB National Programs at **GlobalPrivacy@bbbnp.org**.

16. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

17. Waiver. The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach.

18. Relationship. Nothing in this Agreement shall be construed to create a partnership, joint venture or agency relationship between the parties.

19. Confidentiality. Any information exchanged between the parties pursuant to this Agreement that is designated as confidential including, but not limited to, business and marketing plans, programs, files, specifications, models, designs, pricing information, samples, tools, or other data, whether written, oral, or otherwise ("Confidential Information") shall only be used by the parties in connection with fulfilling their obligations under this Agreement. The parties will hold all Confidential Information in strict confidence and exercise due care with respect to its handling and protection. Nothing above shall restrict the right of either party to disclose Confidential Information that is ordered, required, requested or subpoenaed by a court or governmental or legislative or regulatory body asserting jurisdiction over such party. In such cases, Confidential Information may only be disclosed to the extent so ordered, required, requested or subpoenaed, and each party agrees: (i) to seek such body's confidential treatment of the Confidential Information to the extent legally available and (ii) to give the other party written notice of the order, requirement, request or subpoena within five (5) days of receipt or, in the event that such party has been advised by its legal counsel that providing such notice to the other party is not permissible under the circumstances, then as soon as such disclosure to the other party is legally permissible. The provision of Confidential Information to BBB National Programs shall not prohibit BBB National Programs from being engaged by any third party to provide services to such party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

BBB NATIONAL PROGRAMS, INC.

[PARTICIPANT NAME]

By:

By:

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Covered Entities Addendum

Additional Covered Entities:

Effective Date:

[PARTICIPANT NAME]

By:

Printed Name: _____

Title: _____