



Terms of Use

DISTRIBUTORCENTRAL.COM (THE “SITE”) PROVIDES ITS REGISTERED USERS (“YOU”) WITH ACCESS TO DISTRIBUTORCENTRAL’S PROPRIETARY SOFTWARE TO FACILITATE ON-LINE SALES OF PROMOTIONAL PRODUCTS DIRECTLY BETWEEN YOU AND OTHER REGISTERED USERS (COLLECTIVELY, THE “SERVICES”). BY ACCESSING OR USING THE SITE OR ANY OF THE SERVICES PROVIDED THEREON, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT WISH TO BE BOUND BY THIS AGREEMENT, YOU SHOULD NOT ACCESS OR USE THE SITE OR THE SERVICES. DISTRIBUTORCENTRAL MAY MODIFY THIS AGREEMENT AT ANY TIME, AND SUCH MODIFICATION SHALL BE EFFECTIVE IMMEDIATELY UPON EITHER POSTING OF THE MODIFIED AGREEMENT ON THE SITE OR NOTIFYING YOU AT OUR OPTION. YOU AGREE TO REVIEW THIS AGREEMENT PERIODICALLY TO ENSURE THAT YOU ARE AWARE OF ANY MODIFICATIONS HEREOF. YOUR CONTINUED ACCESS OR USE OF THE SITE OR THE SERVICES SHALL BE DEEMED YOUR CONCLUSIVE ACCEPTANCE OF THE MODIFIED AGREEMENT. IF ANY MODIFICATIONS TO THIS AGREEMENT ARE UNACCEPTABLE TO YOU, THEN YOU MAY TERMINATE THIS AGREEMENT BY GIVING NOTICE OF TERMINATION VIA E-MAIL TO INFO@DISTRIBUTORCENTRAL.COM IN ACCORDANCE WITH SECTION 11 BELOW.

1. REGISTRATION

To use the Site and/or the Services, you must first complete an on-line user registration form. By submitting the registration form, you represent, warrant and covenant to DistributorCentral that (a) you are at least 18 years old, (b) you are an authorized representative of any organization or entity that you purport to represent, (c) the information you provide during the registration process is true, accurate, current and complete in all respects; and (d) you will maintain and update your information to keep it true, accurate, current and complete in all respects. DistributorCentral may prohibit your access to the Site and the Services if it determines, in its sole discretion, that you have used or are not currently using the Site or the Services in an appropriate manner or otherwise strictly in accordance with the terms and conditions of this Agreement.

You are solely responsible at all times for maintaining the confidentiality of your user name and password. You shall not permit use of the Site or the Services by any third party using your user name and password. If you believe there has been or may be a breach of security through your account, you must immediately notify DistributorCentral at INFO@DISTRIBUTORCENTRAL.COM and you must immediately change your password. You are solely liable for any unauthorized use of the Site and/or the Services through your user name and password.

2. LIMITED LICENSE

DistributorCentral hereby grants to you a limited, non-exclusive, non-transferable license to access and use the Site and the Services solely in a manner consistent with the terms and conditions of this Agreement. You may not redistribute, sell, sublicense, decompile, copy, reverse engineer or disassemble the Site or the Services, or otherwise reduce the Site or the Services to any other form whatsoever. YOU MAY NOT USE WEB PAGES OR PARTS OF WEB PAGES GENERATED BY MEANS OF YOUR USE OF THE SITE OR THE SERVICES ON ANY SERVER OTHER THAN THE SERVERS CONTROLLED BY DISTRIBUTORCENTRAL. ALL DATA GENERATED IN CONNECTION WITH YOUR USE OF THE SITE OR THE SERVICES SHALL BE READABLE, EDITABLE, AND USEABLE ONLY BY MEANS OF DISTRIBUTORCENTRAL’S PROPRIETARY SOFTWARE. DISTRIBUTORCENTRAL DOES NOT WARRANT OR GUARANTY THAT ANY DATA GENERATED AND STORED THROUGH USE OF

THE SITE OR THE SERVICES SHALL BE AVAILABLE TO YOU FOR DOWNLOADING OR COMPATIBLE WITH ANY OTHER COMPUTER PROGRAM, SYSTEM OR PACKAGE. You also acknowledge and agree that the Site and the Services are intended for access and use by means of standard web browsing software, and that DistributorCentral does not commit to support any particular browsing platform. DistributorCentral reserves the right at any time to revise and modify the Site and the Services, release subsequent versions thereof and to alter features, specifications, capabilities, functions, and other characteristics of the Site and the Services, without notice to you. If any revision or modification to the Site or the Services materially changes your ability to conduct business or otherwise access or use the Site, your sole remedy is to terminate this Agreement pursuant to Section 11 below.

3. GENERAL USER OBLIGATIONS

You agree to: (a) maintain all equipment and Internet access services required for your access to and use of the Site and the Services; (b) maintain the security and confidentiality of your user name, password and all other confidential information relating to your DistributorCentral account; (c) be responsible for all fees and charges, if any, resulting from the use of your DistributorCentral account, including any unauthorized use prior to your notifying DistributorCentral and changing your password as set forth in Section 1 above; (d) comply with all applicable laws, statutes, ordinances, rules and regulations when using the Site or the Services; and (e) not make any representation or warranty to any third party on behalf of DistributorCentral. You further agree not to engage in any activity that: (a) constitutes or encourages a violation of any applicable law or regulation, including but not limited to, the sale of illegal goods or the violation of export control or obscenity laws; (b) defames, impersonates or invades the privacy of any third party; (c) infringes the rights of any third party, including but not limited to, the intellectual property, business, contractual or fiduciary rights of others; (d) is in any way connected with the transmission of “junk mail” “spam”, or the unsolicited mass distribution of e-mail, or with any unethical marketing practices; (e) involves the display, sale, distribution or creation of any pornographic, obscene or otherwise offensive goods, services, material or ideas, or promotes violence or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age; or (f) attempts to gain unauthorized access to any servers or other equipment or information controlled by DistributorCentral.

4. CATALOG FEES AND RELATED OBLIGATIONS

If you indicate in your online registration form that you desire to establish an online catalog (a “Catalog”) to offer and sell your goods and/or services on the Site, you agree to pay to DistributorCentral fees as negotiated with DistributorCentral representative. DistributorCentral may alter or update its fee schedule from time to time and your continued use of the Site or the Services thereafter constitutes your binding acceptance to such altered or updated fees. You agree to pay a late charge of 1.5% per month, or the maximum rate permitted by applicable law, whichever is less, on any unpaid amount for each calendar month or fraction thereof that payments are in arrears to DistributorCentral. You agree to be responsible for paying all costs and expenses incurred by DistributorCentral in collecting past due amounts hereunder or otherwise in enforcing the terms of this Agreement, including, but not limited to, reasonable attorney’s fees and, where lawful, collection agency fees.

You acknowledge and agree that you shall be solely responsible for all content, goods and/or services offered through your Catalog and all materials used or displayed at your Catalog. You agree to display in your Catalog your detailed contact information, including but not limited to, your name, address, telephone number, fax number, e-mail address, and any additional industry standard information, if applicable. You agree to update such contact information to keep it true, accurate, current and complete in all respects.

You represent and warrant that you have full power and authority under all relevant laws, rules and regulations: (a) to post the content and offer and sell the goods and services offered at your Catalog, including but not limited to, holding all necessary licenses from all applicable jurisdictions to engage in the

advertising and sale of the goods or services offered at the Catalog, (b) to copy and display the materials used or displayed at your Catalog, and (c) to provide delivery of goods or services as specified at your Catalog. You agree that by using the Site and the Services, you hereby grant DistributorCentral, and its successors and assigns, a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, distribute, display, reproduce and create derivative works from all material and content, if any, displayed at your Catalog in connection with your use of the Services, including providing results of search queries and product comparisons on the Site and through the Services. You also grant DistributorCentral the right to maintain your content on DistributorCentral's servers during the term of the Agreement and to authorize the downloading and printing of such content, or any portion thereof, by customers for their personal use.

5. PRIVACY POLICY

DistributorCentral considers your privacy to be of the utmost importance. Users of the Site and/or the Services expressly agree to the terms set forth in DistributorCentral's [Privacy Policy](#), which contains a detailed description of the information gathering and dissemination practices for the Site. By registering for an account with DistributorCentral you may receive our periodic email newsletter as provided under DistributorCentral's Privacy Policy. You may unsubscribe from the newsletter at any time.

In the course of using the Site and the Services, you may come into possession of certain information concerning other users of the Site and the Services, including customers of those other users. This information may include names, addresses, phone numbers, email addresses, credit card numbers, banking and credit information, buying histories, and other private information (collectively "Private Information"). You agree, as a condition of your continued access and use of the Site and the Services, that you will maintain and enforce a privacy policy that clearly states: (a) what Private Information you collect from other users of the Site and the Services, including customers of those other users; and (b) what use, if any, you will make of the Private Information you collect, including internal use and third party use, whether or not the information is aggregated. You represent and warrant that your collection and use of any and all Private Information will always strictly comply with the terms of such privacy policy and that such privacy policy will at all times comply with all applicable state, federal and international laws.

6. OWNERSHIP

DistributorCentral retains sole ownership of all rights, title and interest in and to the Site and the Services. You acknowledge and agree that all content available on the Site or through the Services, including but not limited to text, software, music, sound, logos, trademarks, service marks, photographs, graphics, or video, is protected by copyright, trademark, patent or other proprietary rights and laws, and may not be used by you in any manner other than as specifically set forth in this Agreement. You agree not to change or delete any proprietary notices from content or other materials downloaded from the Site or through the Services.

7. DISCLAIMER; LIMITATION ON LIABILITY

THE AVAILABILITY OF THE SITE AND THE SERVICES DEPENDS ON MANY FACTORS, INCLUDING YOUR CONNECTION SPEED TO THE INTERNET, THE AVAILABILITY OF THE INTERNET, AND THE INTERNET BACKBONE AND EQUIPMENT THAT, BY ITS NATURE, IS NOT FAULT TOLERANT. ALTHOUGH DISTRIBUTORCENTRAL WILL ATTEMPT TO MAINTAIN THE AVAILABILITY OF THE SITE AND THE SERVICES AT ALL TIMES (OTHER THAN DURING SCHEDULED OR EMERGENCY MAINTENANCE), THE SITE AND THE SERVICES ARE HEREBY EXPRESSLY PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NEITHER THIS AGREEMENT NOR ANY DOCUMENTATION FURNISHED UNDER IT IS INTENDED TO EXPRESS OR IMPLY ANY WARRANTY THAT THE SITE OR THE

SERVICES WILL BE UNINTERRUPTED, SECURE, TIMELY OR ERROR-FREE. ANY SECURITY MECHANISMS INCORPORATED IN THE SITE AND THE SERVICES HAVE INHERENT LIMITATIONS AND YOU MUST DETERMINE THAT THE SITE AND THE SOFTWARE ADEQUATELY MEET YOUR REQUIREMENTS. YOU ACKNOWLEDGE AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SITE OR THE SERVICES, IS DONE AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOADING OF ANY SUCH MATERIAL AND/OR DATA OR OTHER USE OF THE SERVICES. DISTRIBUTORCENTRAL, AND ITS MEMBERS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, SHALL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES OR LEGAL THEORIES WHATSOEVER, FOR ANY LOSS OF BUSINESS, PROFITS OR GOODWILL, LOSS OF USE OR DATA, INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, EVEN IF DISTRIBUTORCENTRAL IS AWARE OF THE RISK OF SUCH DAMAGES, THAT RESULT IN ANY WAY FROM YOUR USE OR INABILITY TO USE THE SITE OR THE SERVICES, OR THAT RESULT FROM ERRORS, DEFECTS, OMISSIONS, DELAYS IN OPERATION OR TRANSMISSION, OR ANY OTHER FAILURE OF PERFORMANCE OF THE SITE OR THE SERVICES. DISTRIBUTORCENTRAL'S LIABILITY TO YOU SHALL NOT, FOR ANY REASON, EXCEED THE AGGREGATE PAYMENTS ACTUALLY MADE BY YOU TO DISTRIBUTORCENTRAL OVER THE PREVIOUS SIX CALENDAR MONTHS, WHICH YOU AGREE TO BE A REASONABLE LIMITATION AND A BASIS OF THE BARGAIN. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR LIABILITIES, SO SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

8. INDEMNIFICATION

You agree to indemnify, defend and hold harmless DistributorCentral, and its members, subsidiaries, affiliates, officers, directors, employees and agents from and against all losses, expenses, damages and costs, including attorneys' fees, resulting from your violation of this Agreement or any activity arising out of or related to: (a) your conduct or the conduct of any of your representatives or agents; (b) access to or use of the Site or the Services by you or any other person accessing the Site and/or the Services through your account; (c) your sale, purchase, delivery or use of any goods or services offered on the Site or through the Services; or (d) your violation or other infringement of any third party's intellectual property rights, including without limitation, any trademarks, service marks, trade names, copyrighted or patent rights. DistributorCentral reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you hereunder; provided, that, any such assumption shall not excuse your indemnity obligations to DistributorCentral hereunder.

9. PUBLICITY

You agree that any and all press releases and other public announcements related to this Agreement or your use of the Site or the Services, including the method and timing of such releases or announcements, must be approved in advance by DistributorCentral in writing. DistributorCentral reserves the right to withhold approval of any release or public announcement in its sole discretion. Any breach of your obligation regarding public announcements shall be a material breach of this Agreement.

10. COPYRIGHT COMPLAINTS

DistributorCentral may, in appropriate circumstances and at its sole discretion, terminate use of the Site and the Services by any visitors who infringe on the intellectual property rights of others. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide DistributorCentral's Copyright Agent with the following information:

- (1) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- (2) a description of the copyrighted work that you claim has been infringed;
- (3) a description of where the material that you claim is infringing is located on the Site;
- (4) your address, telephone number, and email address;
- (5) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and
- (6) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Distributor Central's Copyright Agent for notice of claims of copyright infringement can be reached as follows:

By Mail: DistributorCentral, LLC
 324 E. Main St.
 Gardner, KS 66 030
 Attn: Copyright Agent

By Phone: (913) 856-4130

By Email: INFO@DISTRIBUTORCENTRAL.COM

11. TERMINATION

Either party may terminate this Agreement on thirty (30) days prior written notice if the other party has materially breached or is otherwise not in compliance with any provision of this Agreement, and such breach or noncompliance is not cured within such thirty (30) day period. DistributorCentral reserves the right to immediately suspend your access to and/or use of the Site and the Services until such breach or noncompliance is cured. Either party may terminate this Agreement for any reason with sixty (60) days prior written notice to the other party. Notwithstanding the foregoing, DistributorCentral may, but has no duty to, immediately terminate this Agreement and/or your access to or use of the Site and the Services if DistributorCentral, in its sole discretion, determines that you are engaged in illegal activities or the sale of illegal or harmful goods or services, or are engaged in activities or sales that may damage the rights of DistributorCentral or any third party. Any termination under the preceding sentence shall take effect immediately and you expressly agree that you shall not have any opportunity to cure, and shall not be entitled to a refund of any fees paid to DistributorCentral. Upon any termination of this Agreement, DistributorCentral reserves the right to delete from its servers any and all information contained in your account, including but not limited to, order processing information, mailing lists and any web pages or other content generated by or through your use of the Site or the Services. The provisions of this Section 11 and Sections 6, 7, 8, 9, 10, 12 and 13 shall survive any termination of this Agreement.

12. MISCELLANEOUS

This Agreement and the relationship between you and DistributorCentral shall be governed by the laws of the State of Kansas, without regard to its conflict of law provisions. You agree to submit to the personal and exclusive jurisdiction of the District Court of the State of Kansas for the County of Johnson or the United States District Court for the District of Kansas. DistributorCentral's failure to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties intentions as reflected in the provision, and agree that the other provisions of this Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Site or the

Services or this Agreement must be filed within one (1) year after such claim or cause of action arose, or be forever barred. The section titles in this Agreement are for convenience only and have no legal or contractual effect. The provisions of this Agreement are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous proposals, both oral and written, negotiations, representations, writings and all other communications between the parties.

13. NOTICE

DistributorCentral may deliver notice to you under this Agreement by means of electronic mail, a general notice on the Site, or by written communication delivered by first class U.S. mail to your address on record in your DistributorCentral account information. Except for notices required by Section 10 which shall be governed by that Section, you may give notice to DistributorCentral at any time via electronic mail at INFO@DISTRIBUTORCENTRAL.COM.

14. FORCE MAJEURE

Neither party shall be liable to the other for any delay or failure in performance under this Agreement (other than the payment of money) resulting directly or indirectly from acts of God, war, terrorist activity or other causes beyond its reasonable control.