



## Website - Terms of Use

Welcome to the SightWorks online website (the “Site”). This Site is intended to provide you with information and access to a variety of SightWorks products and services. It also allows you to interact with us and others and provides you the opportunity to contact us directly. While we want you to enjoy the experience of visiting and using our Site, we also want you to understand the terms to which you agree when visiting the Site. References to “we,” “our,” “us” or “SightWorks” herein refer to SightWorks, Inc., an Oregon corporation, and our service providers and designees as deemed appropriate by us.

### Compliance with Terms

By accessing this Site, you are agreeing to these Terms of Use, our Privacy Policy and any other legal notices, terms and policies made available on this Site (together referred to as “Terms”), all of which are expressly incorporated herein by this reference.

You agree to use the Site only in accordance with the Terms, whether you are a “Visitor” (which means that you simply browse the Site) or you are a “Member” (which means you have registered with us for the Site). The term “User” means a “Visitor” or a “Member.” Please read and save all of the Terms. If you do not agree with the Terms, do not use this Site or any of its features. If you register to become a Member you may be required to indicate your acceptance to these Terms during the registration process.

### Amendment

We may amend or terminate any Terms at any time and such amendment or termination will be effective at the time we post the revised Terms on the Site. Each time you use the Site you should visit and review the then current Terms that apply to your transactions and use of this Site. Your continued use of the Site after we have posted revised Terms signifies your acceptance of such revised Terms. If you are dissatisfied with the Site, its content or any Terms (including as modified), you agree that your sole and exclusive remedy is to discontinue using the Site. The Terms are the entire agreement between you and SightWorks with respect to your use of the Site.

### Eligibility

Use of the Site and its features and registration to be a Member (“Membership”) is void where prohibited. By using the Site and its features, you represent and warrant that (a) all registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information; and (c) your use of the Site and its features does not violate any applicable law or regulation.

### Term

The Terms, as we may revise them from time to time, shall remain in full force and effect while you use the Site features or are a Member. You may terminate your Membership at any time, for any reason, by providing written notice to us. We may terminate your Membership at any time, for any or no reason, with or without prior notice or explanation, and without liability. Even after Membership is terminated, the Terms will remain in effect and you will remain bound by them except that your right to use the Site as a Member will terminate.

### Passwords

If you register to become a Member, you will be asked to choose a user name (or email address) and password. You are solely responsible for maintaining the confidentiality of this information. You are not permitted to allow anyone else to use your user name and password to log into the Site. You must notify



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us immediately if you suspect any unauthorized use of your account or access to your password. You are solely responsible for any and all use of your account so please be vigilant in protecting its confidentiality.

## **Your Use of the Site**

Users have a non-transferable, non-exclusive license to access this Site, to view information contained at this Site and to interact with the Site solely for their own personal use and not for any commercial purpose. You agree not to use the Site for any unlawful purpose. You agree not to rent, retransmit, disclose, publish, sell, assign, lease, sublicense, market, or transfer the Site or any portion thereof or use it in any manner not expressly authorized by the Terms. You agree not to copy, reverse engineer, translate, port, modify or make derivative works of any portion of the Site.

Tampering with the Site, misrepresenting the identity or age of a user, using buying agents or conducting fraudulent activities on the Site are prohibited.

## **User Content**

### ***Generally***

We may, but are not obligated to, allow you to upload content for display on the Site. If we allow this feature, please choose carefully the information you post on the Site, provide to other Users and/or otherwise make available to us and through the Site. Your content may not include any form of prohibited content, as outlined below. Despite this prohibition, information, materials, products or services provided by other Members (for instance, in their profile or displayed on the Site in areas in which users can post content) may, in whole or in part, be unauthorized, impermissible or otherwise violate the Terms, and we assume no responsibility or liability for this material. If you become aware of misuse of the Site or its features by any person, please click on the "Contact Us" link on the Site pages and follow the directions as to how to contact us.

We reserve the right, in our sole discretion, to reject, refuse to post or remove any posting by you, or to deny, restrict, suspend, or terminate your access to all or any part of the Site at any time, for any or no reason, with or without prior notice or explanation, and without liability. We expressly reserve the right to remove your profile and/or deny, restrict, suspend, or terminate your access to all or any part of the Site if we determine, in our sole discretion, that you have violated the Terms, pose a threat to us, our suppliers and/or our Users or for any other purpose we determine in our sole discretion.

### ***Proprietary Rights***

SightWorks does not claim any ownership rights in the text, files, images, photos, video, sounds, musical works, works of authorship, applications, or any other materials (collectively, "Content") that you post on the Site (if applicable). After posting your Content to the Site, you continue to retain any such rights that you may have in your Content, subject to the limited license herein. The Site may contain Content of Users and other licensors. Except as provided within the Terms, you may not copy, modify, translate, publish, broadcast, transmit, distribute, perform, display, or sell any Content appearing on or through the Site.

By displaying, publishing Content on the Site, or otherwise submitting Content to us (collectively, "posting"), you hereby grant to SightWorks a irrevocable, perpetual, worldwide, royalty-free, non-exclusive license to use, modify, delete from, add to, create derivative works of, publicly perform, publicly display, reproduce and distribute (and to sublicense the foregoing rights through multiple tiers of licensees) such Content on or through the Site. From time to time, we may remove Content from the Site, permanently or temporarily.



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You represent and warrant that: (i) you own the Content posted by you on or through the Site or otherwise have the right to grant the licenses set forth above, and (ii) the posting of your Content on or through the Site does not violate the privacy rights, publicity rights, contract rights, intellectual property or any other rights of any person or entity. You agree to be fully responsible for and to pay any and all royalties, fees, and any other monies owing any person or entity by reason of any Content posted by you.

The Site also contains Content provided by SightWorks, including, without limitation, text, images and logos (“SightWorks Content”). SightWorks Content is protected by copyright, trademark, patent, trade secret and other laws, and SightWorks owns and retains all rights in the SightWorks Content and the features and functionality of the Site. SightWorks hereby grants you a limited, revocable, nonsublicensable license to reproduce and display the SightWorks Content (excluding any software code) solely for your personal use in connection with utilizing the products and services available on the Site.

## **Content Posted.**

You agree to not use the Site to:

1. upload, post, email, transmit or otherwise make available any Content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically or otherwise objectionable;
2. harm minors in any way;
3. forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Site;
4. upload, post, transmit or otherwise make available any Content that you do not have a right to make available under any law or under contractual or fiduciary relationships;
5. upload, post, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials or any other form of solicitation;
6. upload, post, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
7. interfere with or disrupt the Site or servers or networks connected to the Site, or disobey any requirements, procedures, policies or regulations of networks connected to the Site; or
8. intentionally or unintentionally violate any applicable local, state, national or international law; and/or
9. collect or store personal data about other users in connection with the prohibited conduct and activities set forth in paragraphs a through g above.

SightWorks may reject, refuse to post or delete any Content for any or no reason, including, without limitation, Content that in the sole judgment of SightWorks violates these Terms, including our Privacy Policy. We assume no responsibility for monitoring the Site for inappropriate Content or conduct. If at any time SightWorks chooses, in its sole discretion, to monitor the Site, we nonetheless assume no responsibility for the Content, no obligation to modify or remove any inappropriate Content, and no responsibility for the conduct of the User submitting any such Content.

You are solely responsible for your use of the Site, the Content that you post on or through the Site, and any material or information that you transmit to other Members and for your interactions with other Users.



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## Protection of Intellectual Property Rights.

SightWorks respects the intellectual property of others, and requires that our Users do the same. You may not upload, embed, post, email, transmit or otherwise make available any material that infringes any copyright, patent, trademark, trade secret or other proprietary rights of any person or entity. We reserve the right to terminate the Membership of anyone we suspect to be an infringer.

If you believe that your work has been copied in a way that constitutes copyright infringement, or your intellectual property rights have been otherwise violated, please provide SightWorks's Copyright Agent the following information:

1. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
2. a description of the copyrighted work or other intellectual property 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 or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

SightWorks's Copyright Agent for Notice of claims of copyright or other intellectual property infringement can be reached as follows:

Attn: Copyright Agent  
SightWorks, Inc.  
5200 SW Macadam Avenue, Suite 500  
Portland, OR 97239  
Phone: 503-223-4184  
Email: [info@sightworks.com](mailto:info@sightworks.com)

## Disclaimers.

SightWorks is not responsible for and makes no warranties, express or implied, as to any content on the Site, including, without limitation with respect to the accuracy and reliability of the SightWorks Content, User Content or other Content posted on or through the Site, whether caused by us, by Users, by any of the equipment or programming associated with or utilized by the Site, or otherwise. The User Content does not necessarily reflect the opinions or policies of SightWorks. Profiles and third party applications created and posted by Members on the Site may contain links to other websites. SightWorks is not responsible for the content, accuracy or opinions expressed on such websites, and such websites are not necessarily investigated, monitored or checked for accuracy or completeness by SightWorks. Inclusion of any linked website on the Site does not imply approval or endorsement of the linked website by SightWorks. When you access these third party sites, you do so at your own risk. SightWorks takes no responsibility for third party advertisements or third party applications that are posted on or through the Site, nor does it take any responsibility for the goods or services provided by its advertisers. SightWorks is not responsible for the conduct, whether online or offline, of any User of the Site including, without limitation, any Content posted by any User. SightWorks assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to, or alteration of, any User or Member communication. SightWorks is not re-



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sponsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of any email or players due to technical problems or traffic congestion on the Internet or on any portion of the Site or combination thereof, including any injury or damage to Users or to any person's computer related to or resulting from participation or downloading materials in connection with the Site. Under no circumstances shall SightWorks be responsible for any loss or damage, including personal injury or death, resulting from use of the Site, from any User Content posted on or through the Site or from the conduct of any Users, whether online or offline. Additionally, SightWorks shall have no liability for any viruses or anything beyond our control. We are not responsible for any damage to your computer, software, modem, telephone or other property resulting from your use of the Site. We will not be liable to you if you are unable to access information through the Site.

Some states do not allow the exclusion or limitation of certain warranties and/or liabilities, so certain of the above limitations or exclusions may not apply to you.

The Site is provided to Users "AS-IS" and as available and SightWorks expressly disclaims any warranty of fitness for a particular purpose or non-infringement. SightWorks cannot guarantee and does not promise any specific results from use of the Site.

## Limitations of Our Liability

IN NO EVENT SHALL WE BE LIABLE FOR ANY DAMAGE, CLAIM OR LOSS INCURRED BY YOU, INCLUDING WITHOUT LIMITATION COMPENSATORY, INCIDENTAL, DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, IRRESPECTIVE OF WHETHER WE HAVE BEEN INFORMED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, BREACH OF WARRANTY, DEFAMATION, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND OTHER TORTS, AS WELL AS THIRD-PARTY CLAIMS. IF THE WARRANTY EXCLUSIONS OR LIMITATIONS OF LIABILITY SET FORTH IN THIS USE AGREEMENT ARE FOR ANY REASON HELD UNENFORCEABLE OR INAPPLICABLE, YOU AGREE THAT OUR AGGREGATE LIABILITY SHALL NOT EXCEED ONE HUNDRED U.S. DOLLARS (\$100).

## Indemnification

You agree to indemnify and hold SightWorks, its subsidiaries, and affiliates, and their respective officers, agents, partners and employees, harmless from any loss, liability, cost, expense, claim, or demand, including without limitation, reasonable attorneys' fees, due or relating to or arising out of your use of the Site in violation of the Terms and/or arising from a breach of the Terms and/or any breach of your representations and warranties set forth in the Terms and/or arising out of or relating to any Content that you post.

## Miscellaneous

The Terms will be construed, and their performance enforced, under the laws of Oregon without reference to choice of law principles. Any dispute relating to the Terms or the Site may be litigated only in a court having jurisdiction and venue in Multnomah County for state court causes of action and in the District of Oregon for federal court causes of action. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the Terms. We may assign the Terms, in whole or in part, to a related entity or to a third party.



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EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION (INCLUDING BUT NOT LIMITED TO ANY CLAIMS, COUNTERCLAIMS, CROSS-CLAIMS, OR THIRD PARTY CLAIMS) ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. FURTHER, EACH PARTY HERETO CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF EITHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT IN THE EVENT OF SUCH LITIGATION, SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. EACH OF THE PARTIES ACKNOWLEDGES THAT THIS SECTION IS A MATERIAL INDUCEMENT FOR THE OTHER PARTY ENTERING INTO THE TERMS.

The Terms are accepted upon your use of the Site or any of its features and is further affirmed upon you becoming a Member (if applicable). The Terms constitute the entire agreement between you and SightWorks regarding the use of Site and its services and features. The failure of SightWorks to exercise or enforce any right or provision of the Terms shall not operate as a waiver of such right or provision. The section titles in the Terms are for convenience only and have no legal or contractual effect. The Terms operate to the fullest extent permissible by law. If any provision of the Terms is unlawful, void or unenforceable, that provision is deemed severable from the Terms and does not affect the validity and enforceability of any remaining provisions.