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CONSULTANT – RESELLER AGREEMENT

This Reseller AGREEMENT, hereinafter referred to as (the “AGREEMENT”) is entered by and between Ding.Menu LLC a Florida Corporation, having its principal place of business at 1017 NW 123rd Drive, Coral Springs, FL. 33071, hereinafter referred to as (“DING”, the “Company”, or “we”), and You hereinafter referred to as (“Reseller”, “Consultant”, or “you”), the Company and the Reseller collectively hereinafter referred to as (the “Parties”).

1. SERVICES. DING creates, develops, markets and licenses online ordering, payment and management software to restaurants and establishments that sell or distribute food products to consumers in the United States, hereinafter referred to as “Clients”, or “Customers”. These include, but are not limited to the following (the “Products” and/or “Services”) – interactive online menu, online payment processing service, data analytics, QR code generator, text marketing tools, group ordering, running tab and closeout, discount codes and redemption tracking, customize delivery routes and fees.

2. APPOINTMENT. The Company hereby appoints Reseller and Reseller hereby accepts such appointment, as the Company’s nonexclusive independent Reseller for the Products, on the terms and conditions set forth herein. The Company grants to Reseller only those rights expressly set forth herein. The Company retains all other rights, including without limitation, (a) the right to add, delete, discontinue or modify products, prices, and discounts (b) the right to deal directly and/or indirectly with any customer or potential customer. The Company shall not be responsible for any violation of Reseller’s rights hereunder by third parties.

3. RELATIONSHIP. Reseller is an authorized independent reseller. **NOTHING CONTAINED HEREIN SHALL BE CONSTRUED TO THE CONTRARY.** Reseller, its directors, officers, employees and shareholders, shall not be considered an employee, franchisee, or legal representative of the Company for any purpose and shall not have the authority to bind the Company in any contract with any third party, transact business or incur expenses on the Company’s name or on its behalf in any manner, or make promises, representations or warranties on the Company’s behalf, unless otherwise provided in the AGREEMENT. At all times when engaged in the sales of DING’S products and services, Reseller shall operate as its own legal entity. Reseller is limited to the scope of products and services outlined in this AGREEMENT. Any products or services performed or sold beyond the scope of this AGREEMENT will be done so as Reseller personally. DING gives no agency rights to Reseller for products and services beyond this AGREEMENT.

4. TAXES. DING will not be responsible for any employee payroll, employee taxes, FICA, Social Security or Medicare withholdings. Reseller is considered an independent contractor and DING will only be furnishing 1099’s at the end of the calendar year. If you have any concerns regarding this matter, please seek the advice of a CPA or other tax professional. Reseller acknowledges herein, that all payments to the Reseller are gross payments, and the Reseller is responsible for all state and federal income taxes and social security payments thereon.

5. DUTIES OF Reseller. Solicitation of Orders. Reseller’s sole authority under this AGREEMENT shall be to:

- a. solicit and execute orders for the Products in accordance with the terms of this AGREEMENT. Reseller shall not have the authority to make any commitments whatsoever on behalf of the Company with the exception of executing orders, as approved by the Company. The Company reserves the right to accept or reject orders in its sole and absolute discretion. The Company may provide Reseller and Clients with guidance regarding specific products and services;
- b. Use best efforts to introduce, promote the sale of, solicit, and obtain new and additional orders for the Products from potential Customers in the territory;



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- c. Timely deliver the Products to the Customers;
- d. Accurately represent and state Ding policies to all potential and present Customers;
- e. Provide assistance to Company in promotional activities in the Territory;
- f. Devote as much productive time, energy, and ability to the performance of Reseller duties under this Agreement as may be necessary to sell and promote the sale of the Products in a timely and productive manner;
- g. Provide reasonable “after sale” support to buyers of the Products;
- h. Promptly inform Company of all sales and orders
- i. Maintain contact with Ding via phone or email, or other agreed upon means of communication with reasonable frequency to discuss sales activity;
- j. Provide weekly reports of prospecting activity, leads and sales of the Products to Ding;
- k. Disclose any problems concerning Customers immediately to Ding;
- l. Perform such other sales-related services with respect to the Customers as the Company may reasonably require.

6. TERM. DING hereby retains the Reseller to act as an independent contractor and the Reseller agrees to act in such a capacity on behalf of DING for a period of one (1) year from the date of the date of this AGREEMENT. The Agreement may be extended for another term with the mutual consent of both Parties to this Agreement.

7. INDEPENDENT CONTRACTOR/Reseller

Company and Reseller agree and acknowledge:

- a. That Company **will not** require Reseller to work exclusively for Company;
- b. That Company **will not** pay the Reseller a salary or hourly rate, but will pay only the commission stated in section 8;
- c. That Company **will not** dictate the time of performance and hours Reseller works;
- d. That Company will not combine its business operations in any way with the Reseller’s business, but instead both parties will maintain their own operations as separate and distinct;
- e. That Company will not provide insurance. Company will not include the Reseller as an insured under any policy Company has for itself, including, without limitation, any liability, life, health, unemployment compensation or other insurance policy;
- f. That Company will not provide benefits. As provided in IRS Code §3508, the Reseller expressly agrees that, as an Reseller, the Reseller is not entitled to any employee benefits from Company, including but not limited to, any employer withholdings or liability for: taxes, FICA, Medicaid or Medicare, medical or disability insurance, vacation or leave, pension, unemployment insurance or worker’s compensation (collectively “Employee Benefits”). The Reseller is obligated to pay federal and state income tax on any monies paid pursuant to this contractual relationship.
- g. Local government licensing shall be the obligation of the Reseller. The Reseller agrees to abide by all applicable laws as currently written and/or amended. It is the responsibility of the Reseller to check with the applicable government authority regarding consumer protection laws.

8. COMPENSATION TO RESELLER. Commissions are based solely on the work and sales performed by Reseller. The Reseller will not be eligible or entitled to any commissions on any sales that he / she was not a direct participant. Once payment is received for the initial setup fee, Reseller shall be entitled to a sales commission based on the schedule below. Reseller does not have the right to mark up the sales price or add a service fee to DING rates; nor does Reseller have the right to offer discounts without prior DING authorization. DING authorizes Reseller the right to discount up to \$25 off of the initial setup fee and Reseller agrees that this amount will be deducted directly from Reseller’s commission. If AGREEMENT is terminated, all commissions that may be due to Reseller are cancelled and no longer due to Reseller. Reseller must set up a Stripe account and all payments will be handled via the Stripe platform.



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Commission Schedule:

- \$25 due to Reseller after payment of initial setup fee (less any discount offered by Reseller to consumer).
- \$75 due to Reseller after the first 150 Client transactions.
- .15 (cents) per Client transaction.
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Notwithstanding, any fees charged back from Reseller Client(s) will be debited from any commissions due Reseller and if there are no commissions due to Reseller either as a result of lack of sales or Termination, Reseller agrees to reimburse Ding.

9. **EXPENSES.** During the term of this AGREEMENT, the Reseller shall be responsible for all out-of-pocket expenses which are incurred in connection with the performance of the duties hereunder.

10. DENIAL OF WEBSITE ACCESS.

- a. **Website Access.** DING is not responsible or liable for any direct or indirect loss of business or inconveniences resulting from malfunctions, failures, downtime or maintenance of any hardware, software, web page hosting, telephone lines, cable lines, intranet or internet due to third parties. All computer hardware and software is provided by third party vendors or suppliers and is not the responsibility of DING. Neither party shall be responsible for downtimes, delays, software failures or non-performance caused by acts of God or governmental authority, strike or labor disputes, breach of contract by suppliers, or any other cause beyond the reasonable control of that party.
- b. **No Spam Policy.** It is specific Company policy to prohibit unsolicited email (spamming) or information by facsimile relating to the Company and/or its products and services. The Company has a zero-tolerance policy of spamming practices. Resellers who violate the Company's "no spam policy" are subject to termination or suspension.

11. **CONFIDENTIALITY.** The Reseller acknowledges that during the engagement he/she will have access to and become acquainted with various trade secrets, innovations, processes, information, records and specifications owned or licensed by DING and/or used by DING in connection with the operation of its business including, without limitation, DING's business and product processes, methods, customer lists, accounts and procedures. The Reseller agrees that he or she will not disclose any of the aforesaid, directly or indirectly, or use any of them in any manner, either during the term of this AGREEMENT or at any time thereafter, except as required in the course of this engagement with DING. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the business of DING, whether prepared by the Reseller or otherwise coming into his or her possession, shall remain the exclusive property of DING. The Reseller shall not retain any copies of the foregoing without DING's prior written permission. Upon the expiration or earlier termination of this AGREEMENT, or whenever requested by DING, the Reseller shall immediately deliver to DING all such files, records, documents, specifications, information, and other items in his or her possession or under his or her control. The Reseller further agrees that he or she will not disclose his or her retention as an independent contractor or the terms of this AGREEMENT to any person without the prior written consent of DING and shall at all times preserve the confidential nature of his/her relationship to DING and of the services hereunder.

12. **OWNERSHIP AND TITLE TO CONFIDENTIAL INFORMATION.** Reseller acknowledges and agrees that all rights, title and interest in any Confidential Information will remain the exclusive property of the Company. Reseller agrees to immediately disclose to the Company all Confidential Information developed in whole or in part by the Reseller during the term of the AGREEMENT and to assign to the Company any right, title or interest the Reseller may have in the Confidential Information. Reseller agrees to execute any instruments and to do all other things reasonably requested by



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Company, both during and after AGREEMENT duration, in order to vest more fully in the Company all ownership rights in those items transferred by the Reseller to the Company.

13. **THIRD PARTY INFORMATION.** Reseller understands that DING has received and will in the future receive from third parties confidential or proprietary information (“Third Party Information”) subject to a duty on DING’s part to maintain the confidentiality of such information and use it only for certain limited purposes. Reseller agrees to hold Third Party Information in confidence and not to disclose to anyone (other than DING personnel who need to know such information in connection with their work), for DING or to use, except in connection with Reseller’s work for DING, Third Party Information unless expressly authorized in writing by an Officer of DING.

14. **DING INFORMATION.** DING will make available to the Reseller certain Confidential Information of DING, previously non-disclosed to him or her, which will enable him or her to optimize the performance of his or her duties to DING. In exchange, the Reseller agrees to use such Confidential Information solely for DING’s benefit. Notwithstanding the preceding sentence, the Reseller Contractor agrees that upon the expiration or termination of the AGREEMENT, DING shall have no obligation to provide or otherwise make available to the Reseller any of its Confidential Information. “Confidential Information” means any DING’s proprietary information, systems, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, prospect and lead lists, customer lists and customers (including, but not limited to, customers of DING on whom the Reseller Contractor called or with whom him/her became acquainted during the term of the contract), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to the Reseller by DING either directly or indirectly in writing, orally or by drawings and observation of parts or equipment. Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act or omission of the Reseller or of others who were under confidentiality obligations as to the item or items involved or improvements or new versions thereof.

15. **CONFLICTS OF INTEREST; NON-HIRE PROVISION.** The Reseller represents that he or she is free to enter into this AGREEMENT, and that this engagement does not violate the terms of any AGREEMENT between the Reseller and any third party. Further, the Reseller, in rendering his or her duties shall not utilize any invention, discovery, development, improvement, innovation, or trade secret in which he or she does not have a proprietary interest. The Reseller is expressly free to perform services for other parties while performing services for DING. Reseller shall not, directly or indirectly hire, solicit, or encourage leaving DING’s employment, any employee, Reseller, other independent contractors of DING or hiring any such employee, Reseller, or Reseller who has left DING’s employment or contractual engagement within one year of such employment or engagement.

16. **RIGHT TO INJUNCTION.** The parties hereto acknowledge that the services to be rendered by the Reseller under this AGREEMENT and the rights and privileges granted to DING under the AGREEMENT are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any action at law, and the breach by the Reseller of any of the provisions of this AGREEMENT will cause DING irreparable injury and damage. The Reseller expressly agrees that DING shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this AGREEMENT by the Reseller. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that DING may have for damages or otherwise. The various rights and remedies of DING under this AGREEMENT or otherwise shall be construed to be cumulative, and no one of them shall be exclusive of any other or of any right or remedy allowed by law.

17. **TERMINATION.** Either party may terminate this AGREEMENT for any reason effective immediately upon written notice. If AGREEMENT is terminated by Reseller or Company, any and all forthcoming commissions are forfeited and are no longer due to Reseller; all leads, purchase orders, proposals, and service agreements are forfeited by



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Reseller to Company.

18. **INDEMNIFICATION.** Reseller shall indemnify, defend and hold the Company, its shareholders, officers, directors, employees, agents, affiliates, successors and assigns harmless against any and all direct or indirect losses, damages, or expenses of whatever form that any of them sustain as the result of any acts or omissions of Reseller or any of its shareholders, officers, directors, employees, agents, or affiliates, including, but not limited to, (a) breach of this AGREEMENT, (b) intentional misconduct, or negligent or tortious conduct; (c) statements not specifically authorized by the Company in writing; or (d) violation of any applicable law, regulation or order. With respect to claims by third parties against Reseller, Reseller agrees to defend, at Reseller's sole cost, and hold the Company harmless from and against any losses the Reseller may suffer as a result of such claim or lawsuit.

19. **LIMITATION OF LIABILITY DISCLAIMER.** In no event shall the Company be liable for any indirect, special incidental, punitive, or consequential damages, including lost profits of Reseller in connection with any of the Products and/or Services provided by Company. In no event shall the Company be liable for damages in excess of the license fees paid by the Reseller under this AGREEMENT. Reseller specifically acknowledges that any training, sales and/or marketing materials under this AGREEMENT do not constitute a marketing plan in any manner. Reseller is free to conduct its business in any manner it so chooses. Any forms of training, marketing, methods or supplies are simply suggestions and/or examples for Reseller's consideration. The Company makes no representations, warranties, whether expressed or implied, or guarantees as to income or potential income or cash flow.

20. **RETURN OF DING PROPERTY.** Upon termination of the AGREEMENT or earlier as requested by the DING, Reseller will deliver to DING any and all marketing materials, specifications, and documents, together with all copies thereof, and any other material containing or disclosing any DING work product.

21. **PROMOTIONAL MATERIAL.** Subject to the license grant of Section 4, the Company shall provide to Reseller such Product literature and promotional materials as the Company, in its sole discretion, deems appropriate. The Company shall at all times remain the owner of any such product literature and promotional materials. Reseller shall maintain such product literature and promotional materials in good condition at the Reseller's sole cost. Reseller shall not copy or alter such product literature or promotional materials without the Company's prior written consent.

22. **REPRESENTATIONS AND WARRANTIES BY Reseller.** If the Reseller is a corporation or a limited liability company, the Reseller warrants, represents, covenants and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business, that it has all necessary power and has received all necessary approvals to execute and deliver the Addendum, and the individual executing the Addendum on behalf of the Reseller has been duly authorized to act for and to bind the Reseller.

23. **NO GUARANTEES OR SALES PROJECTIONS.** No guarantees or sales projections are made verbally or otherwise, whatsoever, to the Reseller. Actual results will depend on many factors such as product appeal, pricing, product knowledge, selling skills, networking, sales activity, advertisement, competitors, prevailing economic conditions, among other conditions over which DING has no control.

24. **COPYRIGHT.** The content, user interface, source code, work flow, organization, graphics, design, compilation, magnetic translation, digital conversation and other matters related to the Products and/ or Services and the website are protected under applicable copyrights, trademarks and other proprietary (including but not limited to intellectual property) rights. The copying, redistribution, use or publication by you of any such materials or any part of the website, is strictly prohibited. Reseller does not acquire ownership rights to any content, document or other materials viewed through the website. The posting of information or materials on the website or the use of the Products and/or Services



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and any manuals does not constitute a waiver of any right in such information and materials. Any person is hereby authorized to use the information available from DING for DING's sales purposes only. No part of the information from DING can be redistributed, copied, or reproduced without prior written consent of DING. All information used by DING is protected by a compilation copyright in the United States of America Based on U.S. Copyright Law (17 U.S.C. sec 101 et seq) and may not be reproduced in whole or in part. Unless otherwise specified, no one has permission to copy or republish, in any form, any information used by DING.

25. **USE OF MARKS.** Reseller acknowledges that the Company is the exclusive owner and authorized licensee of the various trademarks, service marks, copyrights, logos, names and designs (collectively, the "Marks") used in connection with the Products as may be contained in materials Reseller receives from the Company. Reseller is in no way granted the right to use Company Marks. Reseller understands that it is a separate business entity from the Company. Reseller shall not remove or alter Marks or other identifications used in connection with any Product or add any Marks or other identifications without the Company's prior approval. Reseller will not take any action, directly or indirectly, to register or cause to be registered any Marks or similar marks in its favor or in the favor of any third party.

26. **GRANT OF LICENSE TO USE MARKETING MATERIAL.** The Company grants Reseller a nonexclusive, nontransferable, revocable license to use the Company's Product promotional materials.

27. **TRADEMARK, TRADE NAMES, ADVERTISING.** The name of the Company and other names as may be adopted by the Company are proprietary trade names and trademarks of the Company. As such, these marks are of great value to the Company and are supplied to Reseller for Reseller use only in an expressly authorized manner. Reseller agrees not to advertise the Products and/or Services in any way other than the advertising or promotional materials made available to Reseller by the Company. Reseller agrees not to use any written, printed, recorded or any other material in advertising, promoting or describing the Products and/or Services or the Company marketing program, or in any other manner, any material which has not been copyrighted and supplied by the Company, unless such material has been submitted to the Company for approval and approved in writing by the Company before being disseminated, published or displayed in any manner. The Reseller, as an independent contractor, is fully responsible for all of his/her verbal and written statements made regarding the Products and/or Services and marketing program that are not expressly contained in writing in this AGREEMENT, and advertising or promotional materials supplied directly by the Company. Reseller agrees to indemnify the Company and hold it harmless from any and all liability including judgments, civil penalties, refund, attorney fees, court costs or lost business incurred by the Company as a result of Reseller unauthorized representations. The Reseller will not permit the use of the Company's copyrights, designs, logos, trade names, trademarks, etc. without the Company's prior written permission. All Company materials whether printed, on film, produced by sound recording, or on the Internet, are copyrighted and may not be reproduced in whole or in part by Reseller or any other person except as authorized by the Company. Permission to reproduce any materials will be considered only in extreme circumstances. Therefore, a Reseller should not anticipate that approval would be granted. The Reseller may not produce, use or distribute any information relative to the contents, characteristics or properties of Company Products and/or Services that has not been provided directly by the Company. This prohibition includes but is not limited to print, audio or video media. The Reseller may not produce, sell or distribute literature, films or sound recordings that are deceptively similar in nature to those produced, published and provided by the Company for its Reseller, nor may a Reseller purchase, sell or distribute non-company materials which imply or suggest that said materials originate from the Company. Any display ads or institutional or trademark advertising copy, other than covered in the foregoing rules, must be submitted to the Company and approved in writing by the Company prior to publication. All advertising copy, direct mailing, radio, TV, newspaper and display copy must be approved in writing before being disseminated, published or displayed.

28. **INTERFERENCE or COMPETITION.** During the course of the AGREEMENT and for a period of three (3) years immediately following the expiration or termination of the AGREEMENT the Reseller will not, either directly or indirectly, interfere with DING's contracts and relationships, or prospective contracts and relationships, including, but



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not limited to DING's customer or client contracts and relationships. The Reseller will also not compete or serve as a partner, officer, director, manager, associate, investor, or otherwise for, directly or indirectly, own, purchase, organize or take preparatory steps for the organization of, or build, finance, acquire, lease, operate, manage, invest in, work or consult for or otherwise affiliate with, any business in competition with or otherwise similar to DING's business.

Resellers understands and agrees that any attempt on the part of the Reseller to induce Company employees or other Resellers to leave the Company's employ, or any effort by the Reseller to interfere with DING's relationship with its employees, consultants, vendors, and other resellers would be harmful and damaging to DING. The reseller agrees that during the course of the AGREEMENT and for a period of three (3) years following the expiration or termination of the AGREEMENT, the Reseller will not in any way, directly or indirectly:

- 1) Induce or attempt to induce any employee, consultant, vendor and reseller of DING to quit employment or retainer with DING;
- 2) Otherwise interfere with or disrupt DING's relationship with its employees, consultants, vendors and resellers; or
- 3) Solicit, entice, or hire away any employee, consultant, vendor and reseller of DING for the purpose of an employment opportunity that is in competition with DING.

29. **BREACH.** Under the terms of this AGREEMENT, any party that fails to perform or fails to meet the obligations, rights and conditions of this AGREEMENT will constitute a breach.

30. **DAMAGES DUE TO BREACH.** The Reseller agrees that it would be impossible or inadequate to measure and calculate DING's damages from any breach of the covenants set forth in this AGREEMENT. Accordingly, he or she agrees that if he or she breaches any such covenants, DING will have available, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this AGREEMENT.

31. **GOVERNING LAW.** This AGREEMENT will be governed and construed and enforced in accordance with the laws of the State of Florida. The Parties herein waive trial by jury and agree to submit to the personal jurisdiction and venue of a court of subject matter jurisdiction located in Broward County, State of Florida. In the event that litigation results from or arises out of this AGREEMENT or the performance thereof, the Parties agree to reimburse the prevailing party's reasonable attorney's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled. In any event, no action shall be entertained by said court or any court of competent jurisdiction if filed more than one year subsequent to the date of the cause(s) of action actually accrued regardless of whether damages were otherwise as of said time calculable.

32. **SUCCESSORS AND ASSIGNS.** All of the provisions of this AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

33. **HEADINGS.** Section headings are not to be considered a part of this AGREEMENT and are not intended to be a full and accurate description of the contents hereof.

34. **ASSIGNMENT.** The Reseller shall not assign any of his or her rights under this AGREEMENT, or delegate the performance of any of his or her duties hereunder, without the prior written consent of DING. All of the provisions of this AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

35. **SERVICE PROCESS.** Service Agreements, invoicing, training and account support are to be processed by DING staff only. Resellers will not be involved in any of the service process, unless requested and /or approved by DING.



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36. **NOTICES.** Any and all notices, demands, or other communications required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, emailed or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given three days after deposit thereof in the United States mail addressed to the party to whom such notice, demand or other communication is to be given as follows:

Company: Ding.Menu LLC
1017 NW 123rd Drive
Coral Springs, FL 33071
debbie@ding.menu

Reseller: Name and email address
submitted by Reseller at
[https://ding.menu/salesman-
registration/](https://ding.menu/salesman-registration/)

37. **MODIFICATION OR AMENDMENT.** No amendment change or modification of this AGREEMENT shall be valid unless in writing signed by the parties hereto. DING may make amendments and/or changes to this AGREEMENT at any time. By remaining active the Reseller is agreeing to abide by the terms of the new AGREEMENT.

38. **ENTIRE UNDERSTANDING.** This document and any exhibit attached constitute the entire understanding and AGREEMENT of the parties, and any and all prior AGREEMENTs, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

39. **UNENFORCEABILITY OF PROVISIONS.** If any provision of this AGREEMENT, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this AGREEMENT shall nevertheless remain in full force and effect.