SENSE Program Coordinators:

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Whale SENSE Program Partners:

NOAA Fisheries Greater Atlantic Regional Fisheries Office, and Whale and Dolphin Conservation.

I. **Program Overview**

A. The mission of Whale SENSE is to promote responsible stewardship of large whales in the Greater Atlantic region and recognize commercial whale watching companies that set positive standards for responsible practices and education.

B. This program is voluntary and offered to participating companies at no charge.

C. Participating companies will be included on the list of Whale SENSE program participants. Participants may utilize the Whale SENSE logo in their advertisements once they have met the program requirements as specified by the program partners.

D. The program partners to this agreement are the NOAA Fisheries Greater Atlantic Regional Fisheries Office and Whale and Dolphin Conservation (WDC). Although they are not program partners, it is important to note that the program was developed in collaboration with Greater Atlantic whale watching companies. Whale watching companies continue to play a significant role in the development and advancement of the Whale SENSE program.

E. The purpose of this program is to:

• Empower whale watching industry leadership to serve as conservation stewards in the preservation of large whale species;
• Minimize the potential harassment of large whales that may result from commercial viewing activities;

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1 The “Greater Atlantic” region refers to northeast and mid-Atlantic states, from Maine through Virginia.
• Reduce expectations of members of the public arising from wanting to closely interact with large whales in a manner that may cause harassment (e.g., pressuring commercial vessels to intentionally approach animals in a manner that does not adhere to NOAA’s Greater Atlantic Regional Whale Watching Guidelines);

• Educate potential whale watchers on whale protection and conservation measures;

• Reduce the potential causes of large whale harassment in the Greater Atlantic that may result from inexperienced or aggressive operators maneuvering vessels around whales, lack of education about guidelines/regulations and laws applicable to responsible whale watching, lack of awareness about large whale behavior and signs of disturbance;

• Increase reliable and consistent educational messaging to whale watch passengers;

• Ensure participating whale watching companies emphasize a conservative, respectful and educated approach to whale watching; and

• Promote the Whale SENSE program’s commitment to responsible whale watching practices, whale conservation and ocean stewardship.

*Whale SENSE is an education and public awareness program, not a law enforcement program. Any suspected violations of the Marine Mammal Protection Act (MMPA) or other laws will continue to be dealt with through the appropriate law enforcement agency.*

II. Program Objectives

A. The program partners’ goal is to develop a voluntary education and recognition program for commercial operators to increase their awareness and knowledge, and ultimately that of their customers, about responsible marine mammal viewing practices, whale behavior and biology/ecology, the laws and guidelines protecting whales, and stewardship of the marine environment. Objectives in support of this goal are as follows:

1) Program partners will develop criteria that will assist participants in achieving voluntary compliance with legal requirements, policies, and guidelines, as well as best practices aimed at preventing harassment of large whales.

2) Program partners will develop outreach and education materials to ensure participants’ awareness of the issues surrounding whale conservation and how to promote large whale conservation by preventing harassment.
3) Program criteria will promote marine stewardship and ocean literacy.
4) Program partners will determine the program’s overall effectiveness in the Greater Atlantic region by developing an evaluation component to measure adherence to the program criteria.
5) Program partners will establish a platform for public recognition of operators complying with the program criteria.

III. Eligibility for Program Recognition
A. Businesses conducting dedicated commercial whale watching tours from the Greater Atlantic region (ME to VA) will be eligible for Whale SENSE participation. This includes large passenger whale watching vessels (passenger capacity greater than twelve) and a piloted program for smaller, private, whale watching vessels (passenger capacity twelve or less).

IV. Criteria for Whale SENSE Participation
A. Educate passengers on whale protection and conservation including but not limited to: responsible viewing guidelines, applicable marine mammal protection laws, and the company’s participation in the Whale SENSE program.
B. Distribute outreach materials that promote responsible whale watching practices.
C. Comply with applicable resource protection laws and regulations (e.g. Marine Mammal Protection Act, Endangered Species Act, Right Whale Approach Regulations, Right Whale Ship Strike Reduction Speed Restrictions).
D. Report whales in distress and live right whale sightings to the appropriate networks such as NOAA Fisheries Greater Atlantic Region Marine Animal Hotline: 1-866-755-NOAA (6622), local stranding or disentanglement network partner, or US Coast Guard via CH-16. When possible, stand-by and keep the whale in sight or arrange for another vessel to maintain sight of the whale.
E. Follow NOAA’s policies, guidelines, and recommendations to prevent harassment.
   1) Follow NOAA Fisheries’ policy statement on marine mammal harassment: “Interacting with wild

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2 Participation in the Whale SENSE Program does not create any right to renewal and does not represent a waiver by NOAA to seek penalties that are provided by law if law violations are discovered, nor does it imply that the vessel complies with the United States Coast Guard safety inspection or other applicable safety and insurance requirements. Passengers are encouraged to ask businesses if they maintain current inspection, license, and insurance documentation.

3 For Charter businesses that take customers to view whales but also conduct other types of charters, such as fishing trips and ferry services: Whale SENSE participants agree to follow the program criteria if they encounter whales, even if they are running another type of charter when the encounter occurs.
marine mammals should not be attempted, and viewing marine mammals must be conducted in a manner that does not harass the animals. NOAA Fisheries cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch, or elicit a reaction from the animals.”

2) Utilize best practices and follow NOAA Fisheries Greater Atlantic regional marine mammal viewing guidelines to the best of the vessel’s operational ability (available online at www.greateratlantic.fisheries.noaa.gov/whalewatch).

3) Post a graphic, placard, poster, or NOAA’s Greater Atlantic Whale Watching Guideline brochure describing whale watching guidelines and their overall purpose in an area accessible for public viewing. Program partners will supply these materials upon request at no cost.

F. Exceed standards specified by law, policies, and guidelines to promote stewardship.

1) Participants will create and/or participate in at least one project exemplifying marine stewardship.

a) Projects are unique to each company but must be linked to NOAA’s Ocean Literacy Principles (Appendix 5), and accompanied by a Whale SENSE-approved take home message for passengers.

b) The stewardship project will be identified (prior to enrollment) by the participating company to the Whale SENSE partners. Whale SENSE partners will assist the participant in identifying, designing, and crafting messaging for stewardship project if requested.

c) Examples of projects may include (but are not limited to):

- Participation in marine debris and beach clean-ups;
- Recycling programs;
- Sponsorship of internship programs;
- Providing a consistent and documented research platform for marine mammal researchers from accredited academic institutions, federal or state agencies, or non-profit organizations;
- Hosting educational talks at public venues, such as libraries and schools; or
- Creating a new stewardship project (prior approval required from Whale SENSE partners)

2) Whale SENSE objectives should not be compromised if the company also participates in other business activities such as ferry or fishing services. Companies agree to uphold a standard of responsible practices and code of conduct if marine mammals are viewed during these additional activities. Participants agree to adhere to responsible marine mammal protection practices
applicable to the other businesses (for example: NOAA’s Greater Atlantic Marine Mammal and Sea Turtle Protection Guidelines for Recreational Boaters and Fishermen).

G. Participate in Whale SENSE training.

1) Participating operators, captains, and naturalists/interpreter/narrators must participate in training provided by the program partners to attain an accurate knowledge standard on laws protecting large whales, large whale viewing etiquette, natural versus disturbed behaviors, research and conservation messaging, anthropogenic interaction, and reporting.

2) Participating owners/managers must ensure all naturalists, operators, and captains will be trained according to program standards. The Whale SENSE partners will arrange training sessions and provide necessary materials to participants to ensure that all company operators, captains, and naturalists/interpreter/narrators will be trained according to the program standards.

H. Engage in responsible advertising.

1) Participants agree to engage in advertising that promotes responsible wildlife viewing and follow NOAA Fisheries “Recommendations for Advertising Wild Marine Mammal Viewing” (Appendix 6):
   a) Do not depict people touching, pursuing, chasing, attempting to swim with, or closely interacting with wild marine mammals or any activities that would violate the MMPA or ESA or other regulatory measures.
   b) Do not show vessels underway within close approach zones (e.g. vessels with wakes within 300-100 feet of whales) and no vessel wake should be visible within 0.5 miles of a known location of a whale.
   c) Include a prepared statement or photo caption on the product or website where the image is displayed about responsible large whale viewing in advertisements with close approach pictures.
   d) Right whales will not be shown in images with vessels within 500 yards.
   e) If right whale images (i.e. whale with no boat) are used, a photo caption referencing the 500 yard approach restriction must be included.

4 “Advertising” includes any print or electronic advertisements that mention the business’s name or those linked to the business, search engine listings, and any posted photos. This also includes, but is not limited to, pitch sheets, print, web, visual, and radio. Flexibility will be given to new companies that enrolled after their seasonal brochures are printed. In these cases, meeting these criteria will only be applied to electronic sources (i.e. websites, social media sites, etc.).

5 The advertising guidelines are intended to help participants advertise responsible marine mammal viewing by avoiding advertisements that raise the public’s expectation to engage in inappropriate, close human interactions with marine mammals.

6 Participants will be encouraged to familiarize themselves with the Federal Trade Commission’s rules for “truth-in-advertising” to ensure advertisements are truthful and non-deceptive about marine mammal viewing experiences. Participation in this program does not ensure adherence to the Federal Trade Commission’s advertising policies.
I. Promote the Whale SENSE Program.
   1) Participants will help promote the Whale SENSE program by posting Whale SENSE annual placards onboard each vessel, ticket booth, and souvenir shop (to be provided by partners at no cost).
   2) Participants will link their company website to the Whale SENSE website (www.whalesense.org).

J. Engage in the feedback process.
   1) Participants agree to provide constructive feedback to program partners before, during, and after each season.
   2) Participants agree to participate in an annual end-of-season wrap-up call.

K. Participate in annual evaluation.
   1) Participating companies agree to participate in annual evaluation processes described in section VI of this Framework.
   2) Program evaluation will assess Whale SENSE’s effectiveness and measure the program’s success in meeting the program objectives.

V. **Process for Program Participation**

A. **Initiating Participation:**
   1) Business owner or manager indicates to one of the Whale SENSE partners the desire to become a Whale SENSE participant. Whale SENSE partners provide business owner/manager with a checklist of Whale SENSE program components and criteria, as well as materials to help the business prepare for an evaluation before partners confirm company participation and recognition.

   2) Business owner or manager identifies the following information to Whale SENSE partners:
      a) Whale SENSE point of contact;
      b) Best means of communication;
      c) Start and end dates of the whale watching season;
      d) Links to website and digital marketing materials;
      e) Copies of printed advertisements and brochures;
      f) Stewardship project concept the company will pursue; and
      g) A list of known personnel who will be on staff during the whale watching season.

   3) After receiving this information, Whale SENSE partners will work with company management to schedule an in-person Whale SENSE training session, prior to or no later than one month after the company’s whale watching season begins. Alternative training options will be provided for
additional staff members that begin working later in the season. At the end of each training session, staff will be asked to complete a training evaluation distributed by Whale and Dolphin Conservation, which will be used to evaluate the training’s effectiveness.

4) Whale SENSE partners will review the participating company’s website and conduct a web search to ensure all advertising information follows program criteria.

5) Following the training, Whale SENSE partners will work with company management to schedule an “initial evaluation.”
   a) Whale SENSE partners will meet with the participating company’s Whale SENSE contact at the business site on a mutually convenient date to review the evaluation checklist.
   b) A Whale SENSE partner will observe a complete whale watching tour to make sure captain, operator, naturalists and other staff (when applicable) understand the program criteria (see Appendix 3 for specific evaluation criteria).
   c) A Whale SENSE partner will compile all evaluation components.
   d) Whale SENSE partners will provide initial evaluation results to the participating company.
   e) Following successful completion of the initial evaluation and training, the company will become an official Whale SENSE participant. The participant will then receive recognition materials (see Section V paragraph C below for more details) from the program partners and will be included, as feasible, on all Whale SENSE materials and websites.
   f) If the company does not meet all program criteria following the initial evaluation, the Whale SENSE partners will meet with the business to discuss the program criteria and how best to alter their practices to conform. Whale SENSE partners will provide technical assistance whenever possible. After reviewing the evaluation and making any suggested changes, the company management may contact a Whale SENSE partner to arrange for a re-evaluation. The re-evaluation will be scheduled no later than two weeks after the request is made.

B. Renewing Participation:

1) Recognition materials, such as vessel decals that publicize participation in the program, display the current year. Only a current-year decal indicates active participation in the Whale SENSE program. Recognition for all Whale SENSE participants automatically expires at the end of each calendar year.

2) Companies renewing their participation must contact Whale SENSE partners by March of each

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7 If the request is made within one month of the initial evaluation, only areas in which the criteria are not being followed will be re-evaluated. If the request is made more than one month after the initial evaluation, a full evaluation will be conducted.
calendar year (alternative deadlines will be determined at the discretion of the Whale SENSE partners for companies with whale watching seasons outside of March-October). At this time the company owner or manager must provide updated information to the Whale SENSE partners including:

a) Company Whale SENSE point of contact;
b) Best means of communication;
c) Start and end dates of the whale watching season;
d) Stewardship project the company will pursue;
e) Printed advertisements and brochures;
f) List of known applicable staff during the whale watching season that will be used by the company to monitor training requirement compliance.

3) Companies agree to make sure all advertisements meet Whale SENSE advertising criteria at the time of renewal request.

4) Companies agree to make arrangements with SENSE partners to schedule annual staff training sessions. These annual reviews for essential staff (lead naturalists and operators) must be **completed no later than one month after the start of the company’s whale watching season**. Alternative training options will be provided for additional staff that begins working later in the season. At the end of each training session, staff will be asked to complete a training evaluation distributed by Whale and Dolphin Conservation, which will be used to evaluate the training effectiveness. This evaluation may be completed online via the Whale SENSE website (owned and managed by Whale and Dolphin Conservation). Paper copies of the evaluations will be provided upon request by Whale and Dolphin Conservation.

5) New decals will be distributed to participants only after the company completes the Pre-Season Requirements Checklist (Appendix 2).

6) Whale SENSE public awareness materials will be updated as appropriate to reflect the current list of participants.

**C. Whale SENSE Recognition:**

7) Upon successful completion of training, the applicant will be included on the list of program participants and will receive all program materials and decals with the Whale SENSE logo to display on its vessels, ticket booths, and/or advertisements.
VI. Program Evaluation

A. Purpose of Annual On-the-Water Evaluation:

1) Evaluation of participants annually is essential to gauge the program’s effectiveness and success. This success relies on participants continuing to follow the program criteria after their initial evaluation and after receiving recognition as a Whale SENSE participant. The annual evaluation will typically take place between June & August (alternative deadlines will be determined at the discretion of the Whale SENSE partners for companies with whale watching seasons outside of April-October).

a) The goal of annual evaluation is to ensure that the Whale SENSE criteria are followed and encourage constructive dialogue, not to eliminate participants from the program. Therefore, the focus of the annual evaluation process is to provide participants with constructive feedback related to meeting the Whale SENSE criteria. While program participants are expected to adhere to NOAA’s Greater Atlantic Whale Watching Guidelines to the best of their ability, partners acknowledge that many of the guidelines are not easily observable by an evaluator on deck. Therefore, program partners will work to limit evaluation criteria to only easily observable operational guidelines.

b) Whale SENSE partners will ensure all Whale SENSE participating companies conducting regular whale watching trips, regardless of how many vessels and captains are associated with their business, will be evaluated at least once each year either using in-person observation, third party evaluation, passenger comments, or a combination of these measures (depending on input from each individual company and program funding availability).

B. In-person observation process for larger commercial whale watches (passenger capacity greater than twelve):

1) In-person observations will be conducted randomly through unannounced visits.

2) The evaluator will book, pay for, and attend a regularly scheduled departure. The evaluator will evaluate the voyage for adherence to the Whale SENSE program criteria using a standard, predetermined reporting form (see Appendix 3).

a) Government funds, grant funding, or funds from a non-profit partner organization will cover the cost of trips taken by Whale SENSE evaluators to evaluate program participants.

b) The evaluator will base the operator/captain evaluation on the first whale sighting, and then a randomly selected additional whale sighting occurring later in the trip.
c) At the conclusion of the trip, the evaluator will review evaluation results, noting any areas of concern. If an evaluator observes what he/she determines to be a federal violation he/she may contact the appropriate agency to report the incident.

C. **Mechanisms for evaluating smaller whale watches (passenger capacity less than or equal to twelve):**

1) Since tickets for smaller whale watches must be booked in advance, trips are dependent on the number of tickets booked per trip, and ticket prices range from $100-200 per ticket, unannounced trip evaluations for these companies may be difficult to achieve and/or be cost prohibitive for the program. Therefore, a combination of other mechanisms may be used as evaluation tools for this group. Mechanisms may include, but are not limited to:
   a) If program budget allows, announced trip with program evaluators for operators to demonstrate their knowledge and skills of maneuvering responsibly around whales;
   b) Random passenger surveys or comment cards (created, administered, and collected by Whale and Dolphin Conservation);
   c) Online passenger reviews or videos from websites including but not limited to PlanetWhale, YouTube, and TripAdvisor; and/or
   d) Analysis of fully videoed trip by program evaluators.

D. **Timeline for evaluation results (all companies):**

1) The evaluator will make every effort to provide the completed evaluation form to the program partners within 48 hours of the completed trip. Once the program partners are informed that an evaluation has been completed, they will make every effort to inform the participant within 24 hours.

E. **Program deviations:**

1) If any program deviations are documented, Whale SENSE partners will notify the participant within 24 hours of receiving the completed evaluation from the evaluator (48 hours upon completion of the evaluation).

2) The participant will have 14 days from the date of the notification to revise their practices.

3) Participant re-evaluation will occur after the 14-day timeframe mentioned above through an unannounced spot check, second volunteer evaluation, meeting with Whale SENSE partner, or pre-arranged ride-along by a program partner, volunteer, or third party.

4) If the company fails to revise their practices after being given no more than three opportunities to meet the Whale SENSE standards, the company must remove the Whale SENSE logo from its
vessel(s) and advertisements, and the company name will be removed from the Whale SENSE website and future seasonal program promotions.

5) If the deviation is not related to a federal law violation (i.e. vessel strike), and the evaluated operator disagrees with the evaluator’s findings, they may submit a written response to one of the Whale SENSE partners. If the Whale SENSE partners are unable to come to an adequate resolution as to whether or not the potential deviation represents a program violation, the Whale SENSE partners will convene the Operation Evaluation Panel detailed below for a more detailed review.

F. Operation Evaluation Panel:

1) If the Whale SENSE partners are unable to come to a resolution regarding a vessel’s behavior suspected of representing a program violation (not a federal violation) and disputed by the operator, the program partners will convene an independent evaluation panel consisting of a third party representative who has experience operating whale watching vessels, but who is not currently employed by a Greater Atlantic whale watching company.

2) The name of the company and operator will be redacted during the panel review to minimize bias among parties not involved with conducting the onboard evaluation.

3) The panel will make a determination on whether or not the action in question was the most reasonable course of action given the specific circumstances of the situation (ex. weather may influence vessel changes in behavior that may not coincide with program criteria, but may be necessary for safety reasons).

G. Discrepancies from third-party and passenger feedback evaluation process:

1) If Whale SENSE partners receive reports of program discrepancies from third-party evaluators or passengers, partners will follow the “Complaints Procedure” outlined in section VII of this Framework. If complaints are not received in writing, or if no substantive evidence is provided with the complaint (video and/or photo) to prove a program violation occurred, the partners will follow up with the company with a courtesy phone call describing the complaint; however, no additional action will be taken. Companies are encouraged to address any complaints with their staff at the earliest convenience.

H. Providing feedback:

1) Participants are welcomed and encouraged to voluntarily provide feedback on the evaluation process to the Whale SENSE partners at any time during the year.
VII. Complaints Procedure

The following procedure establishes a process to address complaints received from the public regarding Whale SENSE participants not meeting the program criteria.

A. Telephone Complaints:

1) A record of the conversation will be made and the complainant asked to put their concerns in writing.
2) The complainant will be advised that a copy will be provided to the participant against whom the complaint was made.
3) No further action will be taken unless a written complaint is received by NOAA or WDC.
4) If a written complaint is received, the Complaints Procedure (detailed below in Whale SENSE Framework Part VII (B)) will then be applied.

B. Complaints Procedure:

1) Written complaints will be date stamped and copied to NOAA’s Whale SENSE partner.
2) The NOAA Whale SENSE partner will assess whether the complaint is from a reliable source and if the complaint relates to the program’s criteria. If the complaint does not relate to the program criteria, no further action will be taken.
3) If the complaint does relate to the Whale SENSE program criteria, NOAA’s Whale SENSE partner will forward a copy of the complaint to the participant involved, outlining the main points of the complaint. The complainant’s personally identifiable information (i.e. name, address, email, etc.) will be internal use only and will not be made public or available to the company in question.
4) In the copy of the complaint submitted to the participating company, the Whale SENSE partner will request a response from the participating company (i.e. was there a specific reason recorded in the vessel’s logbook, or does the captain/naturalist recall the circumstances of the program deviation). Responses should be returned to the Whale SENSE partner, in writing, within 5 days of receiving the complaint copy, unless the program partner grants an extension.
5) Whale SENSE partners will review the participant’s response, and consider whether or not the points have been adequately addressed. If the Whale SENSE partners determine the participant has deviated from the program criteria, the participant will be given 2 weeks to address areas of concern.

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*If any complaint is investigated by NOAA Office of Law Enforcement as a take under the Marine Mammal Protection Act, Endangered Species Act or National Marine Sanctuary Act results in a judgment against the participant, the participant will be dropped from the Program. Future reinstatement will be at the discretion of the SENSE program partners.*
The participant will then be re-evaluated utilizing options outlined in section VI of this Framework. The program partners will select the most appropriate evaluation method.

6) If a second written complaint is received by NOAA or WDC within one year, the participant will undergo an additional evaluation in accordance with the procedures described in Whale SENSE Framework Part VI.

7) If three valid complaints are received and upheld within one year, the participant will be ineligible to participate in the Whale SENSE program for one year. The participant will be removed from Whale SENSE program materials, and will not receive annual renewal decals. The company agrees to return current year decals and remove references to the Whale SENSE program from their websites and advertisements.

8) The participant may request re-evaluation and renewed participation after one full year of non-participation.

VIII. Program Framework Review

A. Annual Review:

1) An annual review of the Whale SENSE participation criteria and program framework will ensure the program is functioning as intended and provides the opportunity to address issues that were not foreseen when the criteria were initially developed.

IX. Educational Component

A. Education/Outreach Materials:

1) Well-crafted outreach and educational materials provided to the general public may encourage support of whale stewardship in the Greater Atlantic region. As feasible, Whale SENSE partners will develop outreach and education materials to meet Whale SENSE participants’ stated outreach needs.

B. Continuing Education:

1) Whale SENSE partners will present program framework updates during the annual refresher trainings.

2) Whale SENSE partners may conduct additional educational workshops, upon request by the program participants, on relevant topics of interest such as local research.

3) Whale SENSE partners will maintain a Naturalist List Serv to promote educational events, professional development opportunities, marine related research updates, and to foster
communication amongst Atlantic whale watching naturalists.

4) Whale SENSE partners will maintain and update an online Naturalist Resource Center (www.whalesense.org/naturalist-resource-center/).

X. **Whale SENSE Program Public Awareness**

A. All program partners and participants will engage in activities intended to raise public awareness of this program and the importance of responsibly viewing large whales.

B. These activities may include (but are not limited to):

1) Whale SENSE program partners will post information on their websites about the Whale SENSE program, including a list of current participants.

2) Whale SENSE program partners will conduct outreach about the Whale SENSE program in various publications.

3) Whale SENSE program partners will work with other organizations to promote the importance of the Whale SENSE program through their websites and applicable publications.

4) Whale SENSE program partners will recognize the Whale SENSE program participants through press releases acknowledging the companies’ successful completion of the program’s training and their agreement to follow the voluntary program criteria.

5) Whale SENSE program participants may use the Whale SENSE logo in advertisements that meet the Whale SENSE advertising criteria as outlined earlier in the document, and must remove the logo if dismissed from the program.