

## User Agreement

THIS USER AGREEMENT (“AGREEMENT”) GOVERNS YOUR USE OF THIS WEBSITE AND YOUR PURCHASE AND USE OF SAFETY IN SCHOOLS FOUNDATION OF CANADA SOFTWARE AND OTHER SERVICES AND PRODUCTS INCLUDING ALL CONTENT SUCH AS MODULES, PROGRAMS, TEXT, INFORMATION, IMAGES, VIDEO, PROCESS FLOW, SITE, AND STRUCTURE (collectively, “SERVICES”). BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR BY UTILIZING ANY SERVICES, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES ON WHOSE BEHALF INDIVIDUAL USERS ACCESS THE SERVICES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. WE MAY AMEND THIS AGREEMENT AT ANY TIME AND FROM TIME TO TIME BY POSTING THE AMENDED TERMS ON THE SAFETY IN SCHOOLS FOUNDATION OF CANADA HOMEPAGE ([www.safetyinschools.ca](http://www.safetyinschools.ca)). ALL AMENDED TERMS SHALL AUTOMATICALLY BE EFFECTIVE UPON POSTING.

To make an inquiry about this User Agreement contact:

Safety in Schools Foundation of Canada  
Suite 200 – 4838 Richard Road SW  
Calgary Alberta Canada T3E 6L1  
[info@safetyinschools.ca](mailto:info@safetyinschools.ca)

You may not access the Services if you are our direct or indirect competitor, except with our prior written consent (which consent may be arbitrarily withheld). In addition, you may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. The mirroring, scraping or data-mining of any of our websites or any of their content in any form and by any means is strictly prohibited.

This Agreement was last updated on February 19, 2020. It is effective between You and Us as of the date of You accepting or being deemed to have accepted this Agreement.

## 1. DEFINITIONS

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

“**Order Form**” means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between You and Us from time to time. Order Forms shall be deemed incorporated herein by reference.

“**Purchased Services**” means Services that You or Your Affiliates purchase under an Order Form.

“**Services**” means the online, web-based applications and platform provided by Us via <http://www.safetyinschools.ca> and/or other designated websites as described in the User Guide, that are ordered by You under an Order Form, including associated offline components but excluding Third Party Applications.

“**Third-Party Applications**” means online, web-based applications and offline software products that are provided by third parties, interoperate with the Services, and are identified as third-party applications, including but not limited to those listed in the User Guide.

“**User Guide**” means the online User guide for the Services, accessible via <http://www.safetyinschools.ca> and/or other designated websites as described in the User Guide, as updated from time to time.

“**Users**” means You and individuals who are authorized by You to Use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied User identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents or third parties with which You transact business.

“**We**”, “**Us**” or “**Our**” means Safety in Schools Foundation of Canada.

“**You**” or “**Your**” means, as the case may be, you as an individual and/or company or other legal entity for which You are accepting this Agreement and Affiliates of that company or entity.

“**Your Data**” means all electronic data or information submitted by You to the Purchased Services.

## 2. ELIGIBILITY

The Services are available only to individuals and organizations that can form legally binding contracts under applicable law. Without limiting the foregoing, the Services are not available to minors or to temporarily or indefinitely suspended Users.

## 3. IDENTITY VERIFICATION

To access the Services a valid email and password are required. Safety in Schools Foundation of Canada cannot and does not confirm each User’s purported identity. You are solely responsible for (i) maintaining confidentiality of Your password, (ii) not allowing others to use Your email and password to access the Services, (iii) promptly informing Safety in Schools Foundation of Canada in writing of the need to deactivate a User due to actual or potential security concerns, and (iv) any losses that may be incurred or suffered as a result of Your failure to maintain the confidentiality of your password.

## 4. PURCHASED SERVICES

**4.1 Provision of Purchased Services.** We shall make the Purchased Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

**4.2 User Subscriptions.** Your purchase of a corporate subscription enables unlimited Users within Your organization. You are responsible for the administration of Your Users.

## 5. FEES AND PAYMENT FOR PURCHASED SERVICES

**5.1 User Fees.** You shall promptly pay all fees and other charges specified hereunder including without limitation in an Order Form. Except as otherwise specified herein (including on Order Form), (i) fees and other charges are quoted and payable in the applicable currency dictated by Your address (ii) fees are based on Services purchased and not actual usage of the Services (iii) payment obligations are non-cancelable and fees and other charges paid are entirely non-refundable, (iv) the subscription purchased cannot be decreased during the relevant subscription term stated on the Order Form, and (v) We may change Our fees for the Services from time to time, and such changes will not apply to You until the next renewal of Your subscription.

**5.2 Invoicing and Payment.** You will provide Us with valid and updated credit card information or with a valid purchase order or cheque or alternative instrument acceptable to Us in our sole discretion. If You provide credit card information to Us, You authorize Us to charge such credit card for all Services listed in the Order Form for the applicable subscription term(s) and all renewals. For all subscription renewals, We will invoice You approximately 30 days in advance of subscription expiry and otherwise in accordance with the relevant transaction. Unless otherwise stated, invoiced charges are due net 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in connection with the Services.

**5.3 Overdue Charges.** If any charges are not received by Us from You by the due date, then at Our discretion, (a) such charges shall accrue late interest (compounded monthly) at the rate of 1.5% of the outstanding balance per month (18% per annum), or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid in full, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 5.2.

**5.4 Suspension of Service and Acceleration.** If any amount owing under this Agreement for Services is 10 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee and other obligations to Us under this Agreement (or otherwise) so that all such obligations become immediately due and payable, and forthwith suspend the Services (and any other of Our services and/or obligations to You) until all such amounts are paid in full. Once Services are suspended, You will be required to pay a reactivation fee in addition to the fee and other charges owing on your outstanding Order Form in order to access the Services again.

**5.5 Taxes.** Unless otherwise stated, Our fees and other charges do not include any taxes, levies, duties or similar governmental or other assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 5.5, the appropriate amount shall be invoiced to and promptly paid by You, unless You provide Us with a valid and satisfactory to Us (in our sole discretion) tax exemption certificate authorized by the appropriate taxing authority.

## 6. USE OF THE SERVICES

**6.1 Our Responsibilities.** We shall: (i) provide to You basic support for the Purchased Services at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours' notice via the Purchased Services and which We shall schedule to the extent practicable during weekend hours from 6:00 p.m. Mountain Time Friday to 3:00 a.m. Mountain Time Monday), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays, and (iii) provide the Purchased Services only in accordance with applicable laws and government and other rules and regulations.

**6.2 Your Responsibilities.** You shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data, (iii) use best efforts to prevent unauthorized access to or Use of the Services, and notify Us promptly in writing of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and the rules and/or terms and conditions which We may from time to time post on the Safety In Schools Foundation Of Canada homepage ([www.safetyinschools.ca](http://www.safetyinschools.ca)) and all applicable laws and government and other rules and regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent, lease, lend, loan, distribute, sublicense or otherwise assign or transfer the Services or any rights thereto in whole or in part, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights (including privacy rights), (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or related systems and/or networks.

**6.3 Usage Limitations.** Services may be subject to other limitations, such as, for example, but without limiting the generality of the foregoing, limits on disk storage space, on the number of calls You are permitted to make against Our application programming interface, and, for Services that enable You to provide public websites, on the number of page views by visitors to those websites.

## 7. INFORMATION CONTROL

Safety in Schools Foundation of Canada does not control, or assume any responsibility for, information provided by other Users that may be made available through or by Our Services. You may find other Users' information to be offensive, inaccurate, harmful, or deceptive. Use caution, safe practices, and common sense when using the Services.

**7.1 Verification Process.** Dependent upon the type of subscription purchased, Safety in Schools Foundation of Canada may perform a review and comparison of submitted data and documentation to determine validity and correctness. During this process Safety in Schools Foundation of Canada may assist on Your behalf to adjust Your provided information to achieve a higher level of completion or help Your information display correctly. Safety in Schools Foundation of Canada will not adjust information that is not included or supported by provided documentation. Ongoing maintenance of the subscription remains Your sole responsibility and any assistance provided by Safety in Schools Foundation of Canada should not be construed as an ongoing expectation.

## 8. THIRD-PARTY PROVIDERS

**8.1 Acquisition of Third-Party Products and Services.** We may offer Third-Party Applications for sale. Any acquisition of third-party products or services, including but not limited to Third-Party Applications and any implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are designated as "certified" or otherwise. No purchase of third-party products or services is required to use the Services.

**8.2. Third-Party Applications and Your Data.** If You install or enable Third-Party Applications for use with the Services, You acknowledge that We may allow providers of those Third-Party Applications to access Your Data as required for the interoperation of such Third-Party Applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Third-Party Application providers. The Services shall allow You to restrict such access by restricting Users from installing or enabling such Third-Party Applications for use with the Services.

## 9. PROPRIETARY RIGHTS

**9.1 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

**9.2 Restrictions.** You shall not, directly or indirectly, (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, (iv) reverse engineer, decompile or disassemble the Services or any part thereof, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

**9.3 Ownership of Your Data.** As between Us and You, except as otherwise provided herein or an Order Form, You exclusively own all rights, title and interest in and to all of Your Data.

**9.4 Suggestions.** We shall have and You hereby grant to Us a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Your Users, relating to the operation of the Services.

## 10. CONFIDENTIALITY

**10.1 Definition of Confidential Information.** As Used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known (as evidenced by its written records) to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed (as evidenced by its written records) by the Receiving Party.

**10.2 Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

**10.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior written notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## **11. WARRANTIES, DISCLAIMER AND LIMITATION OF LIABILITY**

**11.1 Our Warranties.** We warrant that the Services shall perform materially in accordance with the User Guide. For any breach of such warranty, Your exclusive remedy shall be to terminate this Agreement and receive the return of Your Data in accordance with Section 13.5.

**11.2 Your Warranties.** You represent and warrant to Us that (i) You have the legal power to enter into this Agreement, and (ii) You will not transmit to Us any Malicious Code.

**11.3 NO ADDITIONAL WARRANTIES BY US.** EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN SECTION 11.1, THE SERVICES AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) AND OTHER SERVICES INCLUDED WITH THE SERVICES OR OTHERWISE MADE AVAILABLE TO YOU BY US ARE PROVIDED BY US ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU EXPRESSLY AGREE THAT YOUR AND YOUR USERS USE OF THE SERVICES IS AT YOUR SOLE RISK.

**11.4 DISCLAIMER AND LIMITATION OF LIABILITY.** EXCEPT AS EXPRESSLY PROVIDED IN SECTION 11.1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHER, EXCEPT FOR THE EXCLUSIVE REMEDY SPECIFIED IN SECTION 11.1, WE WILL NOT BE LIABLE FOR ANY DAMAGES OR LIABILITY OF ANY KIND ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE USE OF THE SERVICES OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO YOU THROUGH OR IN CONNECTION WITH THE SERVICES, INCLUDING, BUT NOT LIMITED TO, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL AND CONSEQUENTIAL DAMAGES.

## **12. INDEMNIFICATION**

**12.1 Indemnification.** You covenant and agree to indemnify and save harmless Us and Our Affiliates and our respective directors, officers, employees, agents and consultants of and from all liabilities, claims, demands, actions, causes of action, damages, losses, costs and expenses whatsoever (including legal fees on a solicitor and his own client basis) suffered or incurred by any of them, directly or indirectly, arising out of, under or pursuant to:

12.1.1 a breach of any agreement, term or covenant on Your part made or to be observed or performed pursuant to this Agreement;

12.1.2 any acts or omissions of You and/or Your Users in carrying out Your obligations under this Agreement; and

12.1.3 any claim made or brought against Us alleging that Your Data, or Your or Your Users use of the Services in violation of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law.

## 13. TERM AND TERMINATION

**13.1 Term of Agreement.** This Agreement commences on the date You accept it or are deemed to accept it and continues until all items purchased by You and granted in accordance with this Agreement have been completed or expire within one (1) year of enrollment.

**13.2 Term of Purchased Items.** Each course purchased by You commences on the start date specified in the applicable Order Form and continues for a period of 365 days and/or the expiration of the course certification on a course-by-course basis.

**13.3 Termination of Agreement.** We reserve the right to forthwith terminate this Agreement upon the happening of any of the following events:

13.3.1 You fail to pay to Us any amount due under this Agreement, and such default continues for a period of 10 days after written notice thereof has been given to You by Us;

13.3.2 Except as specified in Section 13.3.1, You breach any of the provisions of this Agreement;

13.3.3 You make a general assignment for the benefit of creditors;

13.3.4 You institute any proceedings under any statute or otherwise relating to insolvency or bankruptcy, or should any proceeding under any such statute or otherwise be instituted against You and not be dismissed or vacated within 30 days of the date of commencement of such proceeding;

13.3.5 a custodian, receiver, manager or any other person with like powers is appointed to take charge of all or any part of Your undertaking, business, property or assets and such person is not discharged within 30 days of the date of such appointment; or

13.3.6 an order is made by a court of competent jurisdiction or articles of dissolution or the like are filled for Your winding up or liquidation

We may immediately terminate this Agreement and the rights granted hereunder (including without limitation the Services) by giving a written notice to that effect to You.

**13.4 Payment upon Termination.** Upon any termination of this Agreement, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination and any other amounts owing to Us. In no event shall any termination by Us relieve You of the obligation to pay any fees and/or other amounts payable to Us up to and including the last day of the term of all Order Forms.

**13.5 Return of Your Data.** Upon request by You made within 30 days we will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

**13.6 Surviving Provisions.** All provisions of this Agreement that by their nature would be expected to survive the termination or expiration of this Agreement shall survive any termination or expiration of this Agreement including, without limiting the generality of the foregoing, Sections 5, 9, 10, 11.3, 11.4, 12, 13.4, 13.5, 14, 15 and 16.

## 14. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

**14.1 General.** Safety in Schools Foundation of Canada is a Canadian company with offices located at Suite 600 – 4838 Richard Road SW, Calgary AB, Canada, T3E 6L1. Telephone: (403) 984 6375 Facsimile: (403) 253 9647. Electronic mail: [info@safetyinschools](mailto:info@safetyinschools). Website: [www.safetyinschools.ca](http://www.safetyinschools.ca) The Company operates under the laws of Alberta and the laws of Canada applicable in the Province of Alberta.

**14.2 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the first business day after sending by confirmed facsimile, or (iv) the first business day after sending by email. Notices to You shall be addressed to the administrator designated by You for Your relevant Services subscription, and in the case of billing-related notices, to the relevant billing contact designated by You.

**14.3 Agreement to Governing Law and Jurisdiction.** This Agreement shall be governed and interpreted according to the laws of the Province of Alberta and the laws of Canada applicable therein (without giving effect to the choice of laws provisions thereof) and each party to this Agreement agrees to attorn to the non-exclusive jurisdiction of the courts of Alberta.

**14.4 Waiver of Jury Trial.** Each party to this Agreement hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.



## **15. LOGO AND COPYRIGHTED MATERIALS GUIDELINES**

**15.1 Use of Safety in Schools Foundation of Canada Logo(s).** The Safety in Schools Foundation of Canada Logo(s) are property of Safety in Schools Foundation of Canada.

**15.2 Use of Logo(s) Conditions.** Use of the Logo(s) is strictly prohibited without the express written consent of Safety in Schools Foundation of Canada (which consent may be arbitrarily withheld). Any use of the Logo(s) must be for a purpose that supports the mission and goals of Safety in Schools Foundation of Canada. We reserve the right to request proofs for approval for any and all use of Our Logo(s). Utilization of the Logo(s) in a manner deemed to be inappropriate by Us or that is outside of the scope of the Logo and Copyrighted Materials Permissions Form shall be referred to Safety in Schools Foundation of Canada's attorney for possible prosecution. We also reserve the right and authority to withdraw permission for use of the Logo(s) or trademarked material without prior notice and the right and authority to approve or deny any request permission for use of the Logo(s) or trademarked material.

**15.3 Copyright.** All content included in or made available by Us including through any Service-such as text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, and software-is Our exclusive property (unless otherwise specified), and is protected by Canadian and international copyright laws. The compilation of all content included in or made available by Us through any Service is Our exclusive property and protected by Canadian and international copyright laws.

**15.4 Trademarks.** In addition to our specified trademarks, graphics, logos, page headers, button icons, scripts, and service names included in or made available by Us (including through any Service) are, unless otherwise specified, Our trademarks or trade dress in Canada and other countries. Our trademarks and trade dress may not be used in connection with any product or service that is not Ours, in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits Us.

**15.5 Patents.** One or more patents owned by Us may apply to the Services and to the features and services accessible via the Services.

## **16. GENERAL PROVISIONS**

**16.1 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, or fiduciary or employment relationship between the parties.

**16.2 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**16.3 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**16.4 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**16.5 Collection Fees.** You shall pay on demand all of Our reasonable fees and other costs incurred by Us to collect any fees or charges due Us under this Agreement.

**16.6 Assignment.** You may not assign any of Your rights or obligations hereunder, whether by operation of law or otherwise, without Our prior written consent (which consent may be arbitrarily withheld). Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective heirs, personal representatives, successors and permitted assigns.

**16.7 Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Except as otherwise specified in this Agreement, no modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and either signed or accepted electronically by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

**16.8 Language.** Each of the parties acknowledges having required that this Agreement and all documents, notices, correspondence and legal proceedings consequent upon, ancillary or relating directly or indirectly hereto, forming part hereof or resulting directly or indirectly here from be drawn up in English.