



watermark™ MASTER SUBSCRIPTION AGREEMENT (MSA)

BY AGREEING TO A DOCUMENT INCORPORATING THIS MASTER SUBSCRIPTION AGREEMENT (MSA), WATERMARK AND ORGANIZATION AGREE THAT THESE TERMS SHALL GOVERN THE RELATIONSHIP BETWEEN THE PARTIES AS TO ANY SERVICES PROVIDED OR TO BE PROVIDED TO ORGANIZATION AS SET FORTH IN SUCH ORDER FORM. AS TO ANY PARTICULAR ORDER FORM, THE ORDER FORM AND THESE TERMS TOGETHER CONSTITUTE THE AGREEMENT OF THE PARTIES AND ARE REFERRED TO COLLECTIVELY HEREIN AS THE "AGREEMENT." IN THE EVENT OF ANY CONFLICT BETWEEN THE ORDER FORM AND THESE TERMS, THESE TERMS SHALL PREVAIL UNLESS THE ORDER FORM EXPRESSLY PROVIDES IT IS MODIFYING THESE TERMS WITH RESPECT TO SUCH AGREEMENT.

1. The Service

1.1 Introduction. Watermark owns the rights in and to an educational tools website, the URL address of which is www.watermarkinsights.com, and related technology as described in the Order Form, and Watermark has agreed to provide: (i) access to certain of such technologies to Organization ("Subscription Service"); and (ii) if applicable, Professional Services, including Implementation ("Professional Service"), as indicated in the Order Form, and which may be updated by the parties from time to time to add or remove additional Subscription or Professional Services (collectively, "the Service"). Organization wishes to enter into this Agreement with Watermark to enable its employees, and, as applicable, its administrators, faculty and students ("End Users") to make use of the Service.

1.2 Subscription. Subject to and conditioned on Organization's payment of the fees for Subscription Services and compliance with all other terms and conditions of this Agreement, Watermark grants to Organization a limited, non-exclusive, non-transferable, non-sublicensable, revocable right to access and use the Subscription Service solely for the purpose of enabling access and use of the Service by its End Users during the Term of this Agreement, and in accordance with the Order Form.

1.3 Customer Restrictions and Responsibilities. Organization is solely responsible for Organization Data and use of the Service by End Users. Each End User's access to the Subscription Service is conditioned upon the End User's acceptance of the Terms of Service ("ToS"). Watermark shall make the accounts available to Organization, and Organization shall be responsible for providing the access codes to its End Users and informing them that they may register for the Subscription Service. Organization shall be responsible for maintaining the confidentiality of the access codes. Organization shall not, directly or indirectly: (a) attempt to gain access to Watermark's software code for any purpose, including without limitation, to modify, disassemble, de-compile, reverse engineer, or otherwise attempt to determine the source code or protocols from the object code of the Service or knowingly permit or encourage any third party to do so; (b) use the Service in any manner to provide service bureau, time-sharing or other computer services to third parties; (c) use the Service in any manner to assist or take part in the development, marketing, or sale of a product potentially competitive with the Service; (d) remove or modify any proprietary marking or restrictive legends placed on the Service; or (e) use the Service, or allow the transfer, transmission, export, or re-export of the Service or portion thereof in violation of any applicable law, including, without limitation, export control laws or regulations administered by a government agency of competent jurisdiction. Organization shall: (a) provide access to Organization's premises and such other facilities as may reasonably be required for purposes of performing the Service; (b) respond promptly to any Watermark request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Watermark to perform Services in accordance with the requirements of any Order Form; and (c) provide such information as Watermark may reasonably request, in order to carry out the Services, in a timely matter, and ensure that it is complete and accurate in all respects. If Watermark's performance of its obligations under the Agreement is prevented or delayed by any act or omission of Organization or its agents, subcontractors, consultants or employees, Watermark shall not be deemed in breach of its obligations under this Agreement or any Order Form or otherwise liable for any costs, charges or losses sustained or incurred by Organization, in each case, to the extent arising directly or indirectly from such prevention or delay.

1.4 Watermark Responsibilities. In the event that End Users will be paying for their accounts directly, Watermark shall inform Organization when Organization may advise its End Users to begin purchasing accounts and self-registering on the Subscription Service. Watermark shall: (a) provide support as specified in any Order Form; and (b) perform the Service using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

1.5 Service Availability. Watermark shall endeavor to ensure that the Subscription Service is available, except for scheduled downtime for maintenance or in the event of a force majeure event (as defined in Section 9). In the event of unexpected downtime, Watermark's sole obligation will be to use commercially reasonable efforts to resolve the issue as soon as reasonably practicable under the circumstances. Notwithstanding anything to the contrary in this Agreement, Watermark may temporarily suspend Organization's and any End User's access to any portion or all of the Service if: (i) Watermark reasonably determines that (A) there is a threat or attack on any of Watermark's IP; (B) Organization's or any End User's use of Watermark's IP disrupts or poses a security risk to Watermark's IP or to any other customer or vendor of Watermark; (C) Organization, or any End User, is using Watermark's IP for fraudulent or illegal activities; (D) subject to applicable law, Organization has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Watermark's provision of the Service to Organization or any End User is enjoined or otherwise prohibited by applicable law, or threatened to be enjoined or prohibited; or (ii) any vendor of Watermark has suspended or terminated Watermark's access to or use of any third-party or products required to enable Organization to access the Service; (any such suspension described in subclause (i), or (ii), a "Service Suspension"). Watermark shall use commercially reasonable efforts to provide written notice of any Service Suspension to Organization and to provide updates regarding resumption of access to the Service following any Service Suspension. Watermark shall use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured.

1.6 Additional Terms for Professional Services. If either party wishes to change the scope or performance of any applicable Professional Services, it shall submit details of the requested change to the other party in writing. Watermark shall, within a reasonable time after receiving an Organization-initiated request, or at the same time that it sends a Watermark-initiated request, provide a written estimate to Organization of: (i) the likely time required to implement the change; (ii) any necessary variations to the fees and other charges for the Professional Services arising from the change; (iii) the likely effect of the change on the Professional Services; and (iv) any other impact the change might have on the performance of the Agreement. Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change (a "Change Order"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing. Notwithstanding this provision, Watermark may,

from time to time change the Professional Services without the consent of Organization provided that such changes do not materially affect the nature or scope of the Services, or the fees or performance duties set forth in the Agreement.

1.7 End User Polls. Watermark may, from time to time (but no more than quarterly), conduct optional polls of End Users to ascertain and measure the use and enjoyment of the Service by End Users. All right, title and interest in poll inquiries and responses will belong to Watermark.

1.8 Compliance. Each party shall comply with all applicable laws and regulations with respect to its activities under this Agreement, including but not limited to the Family Educational Rights and Privacy Act ("FERPA"). Watermark shall implement reasonable administrative, technical and physical safeguards in an effort to secure its facilities and systems from unauthorized access and to secure Organization Data.

2. Publishing of Organization Data and Materials

2.1 Materials. Organization acknowledges that End Users may compile and post to the Subscription Service materials comprised of text, data and images ("Materials"), which may be made available by End Users to other End Users to enable them to download, reproduce and distribute such Materials.

2.2 Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Watermark may monitor Organization's use of the Service and collect and compile Aggregated Statistics. As between Watermark and Organization, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Watermark. Organization acknowledges that Watermark may compile Aggregated Statistics based on Organization Data input into the Services. Organization agrees that Watermark may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Organization or Organization's Confidential Information. "Aggregated Statistics" means data and information related to Organization's use of the Service that is used by Watermark in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Service. "Organization Data" means, other than Aggregated Statistics, Materials and other information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Organization or an End User through the Service. Subject to the provisions of this Agreement, Organization Data and Materials will be treated in accordance with the Privacy Policy.

2.3 Intellectual Property; Ownership.

2.3.1 Watermark IP. Watermark retains ownership of the Service, including its technological components, and developments and derivatives thereof, including all intellectual property rights therein. To the extent of the proprietary information of Watermark contained in the Service, Organization agrees to protect the Service using the same standard of care it uses to protect its similar information but not less than a reasonable person standard of care. Organization acknowledges that Watermark will be irreparably harmed by any breach of this Agreement by it or its End Users, including, without limitation, by the unauthorized use or disclosure of the Service and, further, that monetary damages may not be a sufficient remedy for such harm. Organization agrees that Watermark shall be entitled, without waiving any other rights or remedies and without further demonstration of irreparable harm or the inadequacy of monetary damages and without the requirement to post bond or other security, to obtain injunctive or other equitable relief in the event of any breach of this Agreement by Organization or End Users.

2.3.2 Organization Data. Watermark acknowledges that, as between Watermark and Organization, to the extent of Organization's rights in and to Organization Data, Organization owns all right, title, and interest, including all intellectual property rights, in and to Organization Data. Watermark and its service providers and its affiliates may use Organization Data to provide and improve the Services in accordance with this Agreement. Watermark may delete any inappropriate Organization Data posted on the Service, and reserves the right (but not the obligation) to take any action which Watermark deems appropriate in its sole discretion with respect to any Organization Data posted on the Service. The Organization hereby authorizes Watermark to use the name of the Organization within a list of other users of the Service in any media, solely to identify the Organization as a user of the Service and without any indication of sponsorship or affiliation. Watermark shall not use the Organization's name publicly in any other manner without the prior permission of the Organization.

2.3.3 Feedback. If Organization or any of its employees or contractors and/or agents or other End Users sends or transmits any communications or materials to Watermark suggesting or recommending changes to Watermark's IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), Watermark is free to use such Feedback irrespective of any other obligation or limitation between the parties governing such Feedback. Organization hereby assigns to Watermark on Organization's behalf, and on behalf of its employees, contractors and/or agents or other End Users, all right, title, and interest in, and Watermark is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Watermark is not required to use any Feedback.

3. Indemnification

3.1 Organization Indemnification. Organization shall, at its sole cost and expense, indemnify, defend and hold harmless Watermark and its affiliates, and their respective employees, officers, directors, shareholders, agents, insurers or third party providers, from and against all actual or threatened claims by third parties (including its End Users) and pay all costs, including reasonable attorneys' fees, and damages resulting from such claims arising out of: (i) the use of the Service by Organization or its End Users, (ii) any breach of this Agreement by Organization, including, without limitation, any unauthorized use or disclosure of the Service, (iii) any breach of the ToS by an End User, (iv) violation of any law or regulation by Organization or its End Users, or (v) the infringement, misappropriation or violation by Organization, its End Users or Organization Data of any patent, copyright, trademark, trade secret or other proprietary or privacy right of a third party.

3.2 Watermark Indemnification. Watermark shall, at its sole cost and expense, indemnify, defend and hold harmless Organization and its employees, officers, directors, Board of Trustees and agents from and against all claims by third parties and pay all costs, including reasonable attorneys' fees, and damages resulting from such claims to the extent arising out of the infringement, misappropriation or violation of the Service of any United States patent, copyright, trademark or trade secret, and excluding any claims and damages covered by the indemnification by Organization under Section 3.1. In any such event, Organization shall promptly give written notice of the claim to Watermark and give Watermark the opportunity to assume sole control of the defense and settlement of the claim. If the Service or a portion thereof becomes, or in Watermark's opinion is likely to become, the subject of an infringement claim, Watermark may, at its option and expense, either (a) procure the right to continue using the Service or portion thereof, or (b) replace or modify the Service or portion thereof so that it becomes non-infringing. Notwithstanding the foregoing, Watermark will have no obligation under this Section or otherwise with respect to any infringement claim based upon (i) any use of the Service by Organization in breach of this Agreement, or (ii) any use of the Service that is not an intended use of the Service.

4. Confidentiality

The term "Confidential Information" shall mean any and all information which is disclosed by either party to the other verbally, electronically, visually, or in a written or other tangible form which is either identified by the disclosing party ("Discloser") as confidential or proprietary or should be reasonably understood to be confidential or proprietary, based on the circumstances of disclosure or content of the information; provided that Confidential Information shall not include any information which: (a) was in the possession of, or was rightfully known by the receiving party ("Recipient") without an obligation to Discloser to maintain its confidentiality prior to receipt from Discloser; (b) is or becomes generally known to the public without violation of this Agreement; (c) is obtained by Recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality to Discloser; or (d) is independently developed by Recipient without access to or reliance upon the Confidential Information. Recipient shall protect and safeguard the confidentiality of all such Confidential Information with at least the same degree of care as the Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. Recipient shall not use Discloser's Confidential Information, or permit it to be accessed or used, for any purpose other than fulfilling its obligations and exercising its rights hereunder, or otherwise in any manner to Discloser's detriment, including without limitation, to reverse engineer, disassemble, decompile, copy, export or design around Discloser's proprietary services, products, and/or confidential intellectual property. Recipient shall keep Confidential Information in strict confidence and shall not disclose it to any third party except such party's officers, directors, employees, advisors, attorneys, accountants, agents or other representatives having a need to know such information in connection with this Agreement and who have been advised of Recipient's obligations under this Agreement. Recipient shall be fully responsible for any breach of the terms of this Agreement by any of its Representatives.

5. Warranties; Disclaimer

5.1 Warranty. Organization represents and warrants that: (a) it has the authority and capacity to enter into this Agreement, and to carry out and perform its obligations as set forth herein, (b) this Agreement is a valid and binding obligation of Organization enforceable in accordance with its terms, and (c) Organization has reviewed Watermark's Privacy Policy, and by agreeing to this Agreement has accepted the terms thereof.

5.2 Disclaimer. Use of the Service is at the sole risk of Organization and End Users. Watermark makes no express or implied warranty that the Service will be uninterrupted or error free, nor does it make any warranty as to the results that may be obtained from use of the Service, or as to the accuracy, reliability, completeness, or content of any information or Organization Data, software or merchandise that may be provided through the Service. No statement, information or advice, including, but not limited to statements regarding capacity, suitability for use or performance, whether made by a Watermark employee, reseller or other representative or otherwise, which is not contained in this Agreement shall be deemed to be a warranty by Watermark for any purpose or give rise to any liability of Watermark whatsoever, and Organization agrees that it will not rely on any such statement, information or advice.

5.3 No Editorial Control. Organization acknowledges that Watermark exercises no editorial control over Organization Data posted by users of the Service. The views and opinions expressed in such information do not necessarily reflect those of Watermark or its content providers or licensors. Neither Watermark nor its content providers or licensors make any warranties or representations regarding the accuracy, adequacy, truthfulness, completeness, or usefulness of such information.

5.4 Third Party Websites. Any links provided from the Service are to websites not under control of Watermark, and Watermark in no way endorses or shall have any liability arising from such sites or the products or services offered therein. Watermark does not endorse any such linked websites.

5.5 DISCLAIMER OF WARRANTIES. THE SERVICE, SUPPORT, TRAINING AND ALL INFORMATION, MATERIALS AND SOFTWARE ACCESSIBLE THROUGH THE SERVICE ARE PROVIDED ON AN "AS-IS," "AS-AVAILABLE" BASIS. THERE IS NO EXPRESS OR IMPLIED WARRANTY MADE AGAINST INTERFERENCE WITH THE ENJOYMENT OF ACCESS TO THE SERVICE OR THE INFORMATION CONTAINED THEREIN. WATERMARK HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, USAGE, FITNESS FOR ANY PARTICULAR PURPOSE OR NON-INFRINGEMENT.

6. Limitation of Liability

6.1 LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES AND UNDER NO THEORY OF LIABILITY (INCLUDING NEGLIGENCE, CONTRACT, TORT, BREACH OF WARRANTY, STRICT LIABILITY OR OTHERWISE) SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR END USERS OR ANY OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES THAT ARISE FROM LOSS OF ANTICIPATED REVENUE, LOSS OF INFORMATION OR MATERIAL OF ANY KIND, LOST PROFITS, LOSS OF BUSINESS AND INJURY TO PROPERTY OR PERSON), EVEN IF THE FIRST PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING IN CONNECTION WITH OR RESULTING FROM THE USE OF OR INABILITY TO USE THE SERVICE, INCLUDING BUT NOT LIMITED TO RELIANCE ON ANY MATERIALS, CONTENT, INFORMATION, SERVICES, SOFTWARE OR PRODUCTS OBTAINED ON THE SERVICE, OR MISTAKES, OMISSIONS, INTERRUPTIONS, COMMUNICATION FAILURES, DELETION OF FILES OR E-MAIL, ERRORS, DEFECTS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION, OR ANY FAILURE OF PERFORMANCE, OR THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO RECORDS, PROGRAMS OR WEB SITES. ORGANIZATION ACKNOWLEDGES THAT WATERMARK IS NOT RESPONSIBLE FOR THIRD-PARTY SERVICES OR CONTENT MADE AVAILABLE THROUGH THE SERVICE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, AND IN SUCH STATES WATERMARK'S LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

6.2 Maximum Liability. If, notwithstanding the foregoing, Watermark is held liable for damages to Organization, End Users or third parties in connection with this Agreement, then regardless of the theory of liability (including negligence, contract, tort, breach of warranty, strict liability or otherwise), in no event shall the maximum liability of Watermark or its affiliates, and respective directors, officers, shareholders, employees, agents, insurers or third party providers exceed the aggregate dollar amount paid by Organization for subscriptions to Watermark in the twelve (12) month period preceding the date of the claimed breach, injury or damage. THIS SECTION LIMITS AND ALLOCATES THE RISK AND ORGANIZATION ACKNOWLEDGES THAT THE PRICING PROVIDED UNDER THIS AGREEMENT REFLECTS THIS LIMITATION AND ALLOCATION OF LIABILITY.

7. Term and Termination

7.1 Term. The term of the Agreement commences on and continues from the Effective Date of the Initial Order Form executed under the Agreement until all subsequent Order Forms entered into by the Parties in connection with the Agreement have expired or otherwise been terminated, unless extended pursuant to the written agreement of the parties ("Term"). Service Subscriptions commence on the date and are for the period set forth in the applicable Order Form.

7.2 Termination for Breach; Dispute Resolution. Either party may terminate this Agreement by written notice in the event of material breach by the other party, should such breach remain uncured for thirty (30) days after the receipt of notice describing such breach in reasonable detail (or if not subject to cure, immediately upon written notice). If a dispute arises out of or relates to this

Agreement, or the breach thereof, the parties shall consult and negotiate with each other in good faith for a period of no less than 30 days to reach a solution prior to terminating this Agreement.

7.3 Effects of Termination. Upon termination of this Agreement for any reason: (a) all subscriptions granted to Organization hereunder shall immediately terminate, (b) Organization shall immediately cease (and cause End Users to cease) using the Service and associated materials, and Watermark may disable Access Codes and remove access of Organization and End Users to the Service, and (c) in the event that such termination was by Organization under Section 7.2 ("Termination for Breach"), then Watermark shall refund to Organization any prepaid Fees on a pro-rata basis reflecting the unused remainder of the term. Any such termination shall not relieve either party from any obligations hereunder accrued at or prior to the effective date of termination or waive any right of the non-breaching Party hereunder or at law or in equity.

8. Suspension of Service

Watermark may monitor the Service for a violation of this Agreement or any applicable law or third party rights and may suspend access to the Service for the duration of any such violation. Watermark will use commercially reasonable efforts to provide notice to Organization in advance of any suspension to the extent practicable under the circumstances. Organization agrees that Watermark will not be liable to Organization or End Users if Watermark exercises its suspension rights as permitted by this Section.

9. Force Majeure

If any party to this Agreement is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement (other than Organization's obligation to make payment), that party shall give to the other party prompt written notice of the force majeure event; thereupon the obligations of the party giving the notice, so far as they are affected by the force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The affected party shall use all reasonable diligence to remove the force majeure situation as quickly as practicable, provided that resolution of a force majeure event shall be at the sole discretion of the affected party. The term "force majeure" as herein contemplated, shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, plague, lightning, fire, storm, flood, earthquake, explosion, governmental action, governmental delay, restraint or inaction, unavailability of equipment, service or supplies and any other cause, whether of a kind specifically enumerated above or otherwise which is not reasonably within the control of the party claiming suspension.

10. Survival

Any right or obligation hereunder which creates a right of action or which by its terms continues beyond the expiration or termination of this Agreement shall survive any termination or expiration of this Agreement.

11. Miscellaneous

Neither party is, nor shall be deemed to be, an employee, agent, co-venturer or legal representative of the other party for any purpose. The parties are independent contractors. Neither this Agreement nor any interest hereunder shall be transferable or assignable by Organization without the prior written consent of Watermark; provided, however, that Organization may assign this Agreement without consent to an affiliate or to any successor-in-interest in connection with the merger or the sale of all or substantially all of its capital stock or assets to which this Agreement relates. Subject to the foregoing, the rights and obligations hereunder shall be binding on each party and their respective successors and assigns. Whenever possible, each provision of the Agreement shall be interpreted in such manner as to be effective, valid and enforceable under applicable law, but if any provision of the Agreement is held to be prohibited by or invalid or unenforceable under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity or unenforceability, without invalidating, or rendering unenforceable, the remainder of the Agreement. This Agreement (including the Order Form, applicable ToS signed by End Users, and the Privacy Policy) contains the entire understanding and agreement between the parties hereto with respect to the matters referred to herein, and supersedes any prior agreements on this subject matter between the parties with respect to the subject matter hereof. Except as otherwise provided herein, this Agreement may not be modified or amended except in a writing signed in ink or accepted electronically by the parties. Consistent with the foregoing, in the event that Organization submits a purchase order or any other written instructions that contain any terms or conditions, such order or other instructions shall be considered as a confirmation only and the terms and conditions shall in no way amend, prevail over, supplement or supersede any term or condition hereof. No provision of the Agreement shall be waived by any act, omission or knowledge of a party or its agents or employees except by an instrument in writing expressly waiving such provision and signed by a duly authorized officer of the waiving party. No waiver shall constitute a consent to or waiver of any other breach of the same obligation or a breach of any other obligation contained herein. All notices to be given hereunder shall be in writing, shall be effective when received or personally delivered, and shall be delivered personally, by facsimile transmission (receipt verified), mailed by certified mail (return receipt requested), postage prepaid, or sent by express courier service, to the parties at the address first written above (or at such other address for a party as shall be specified by like notice, also effective only upon receipt thereof). This Agreement shall be governed by and construed in accordance with the laws of the United States and the State in which Organization is located, if Organization is located in the United States, or the State of New York, if Organization is located outside of the United States, without regard to conflicts of laws and principles thereto. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Each party hereby waives and agrees not to assert any claim of improper venue, lack of personal jurisdiction or forum non conveniens in any claim brought according to the terms of this Section. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original of this Agreement and all of which taken together shall constitute one agreement. Delivery of an executed counterpart by facsimile transmission, electronic mail in "Portable Document Format" (.pdf) form, or any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signatures.