

# Terms of Service

Last updated: 09/26/2023

## 1. Introduction

Please read these Terms of Service ("Terms") carefully before using Inq-ITS and Inq-Blotter websites (<http://www.inqits.com>), any of its subdomains, or any of its associated research platforms (<http://sling.org>), (the "Service", "Services", "Site", "Sites", "Websites", "Website"). The services are wholly owned and operated by Apprendis LLC (<http://www.apprendis.com>; "Company", "us", "our", and "we"). Certain features of the Site may be subject to additional guidelines, terms, or rules, which will be posted on the Site in connection with such features. All such additional terms, guidelines, and rules are incorporated by reference into these Terms.

THESE TERMS SET FORTH THE LEGALLY BINDING TERMS AND CONDITIONS THAT GOVERN YOUR USE OF THE SITE. BY ACCESSING OR USING THE SERVICES, YOU ARE ACCEPTING THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT), AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT). THESE TERMS APPLY TO ALL VISITORS, USERS, AND OTHERS WHO ACCESS THE SITE.

IF YOU DISAGREE WITH ANY PART OF THE TERMS, THEN YOU MAY NOT ACCESS THE SERVICES.

**USERS UNDER 18 YEARS OF AGE SHALL HAVE PRIOR APPROVAL FROM THEIR PARENT OR LEGAL GUARDIAN, AND/OR SHALL HAVE BEEN AUTHORIZED BY THE APPROPRIATE PERSONNEL WITHIN THEIR SCHOOL OR DISTRICT TO REGISTER FOR USE OF THE SERVICES.**

We reserve the right to suspend, discontinue, delete, modify or remove any content or functionality offered from time to time, without prior notice, without reason or liability, and/or to offer certain content or functionality only in various versions or in selected times, based on our sole discretion. In addition, we may charge users for certain content or functionality which are currently free.

THESE TERMS REQUIRE THE USE OF ARBITRATION (SEE SECTION 13.2) ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

## 2. Governing Law

These Terms shall be governed and construed in accordance with the laws of the United States of America, without regard to its conflict of law provisions. Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service, and supersede and replace any prior agreements we might have between us regarding the Service.

### **3. Accounts**

3.1 Account Creation: In order to use certain features of the Site, you must register for an account ("Account") and provide certain information about yourself as prompted by the account registration form. We reserve the right to decide which content and functionalities require registration or will require registration in the future. If you wish to register to use such services, you must enter into a User Agreement with us, and you must continue also to abide by these Terms of Use. When creating an account, you represent and warrant that: (a) all required registration information you submit is truthful and accurate; (b) you will maintain the accuracy of such information. You may delete your Account at any time, for any reason, by following the instructions on the Site. Please note that even though you may terminate your account, your data may still be utilized in ways set forth in our [Privacy Policy](#), which we consider part of these Terms. We may suspend or terminate your Account in accordance with Section 11.

3.2 Account Responsibilities: You are responsible for maintaining the confidentiality of your Account login information and are fully responsible for all activities that occur under your Account. You agree to immediately notify us of any unauthorized use, or suspected unauthorized use of your Account or any other breach of security. We cannot and will not be liable for any loss or damage arising from your failure to comply with the above requirements.

3.3 Users under 18 years of age: If you are under 18, you may use the services only with authorization and supervision of a parent, legal guardian, or personnel who has authorized use (e.g. your teacher). The Company reserves the right to refuse service, terminate accounts, remove or edit the Content, or cancel orders in its sole discretion. In case of a conflict between these Terms of Use and the User Agreement, the specific provisions of the User Agreement shall supersede the conflicting term of these Terms of Use.

### **4. License and Service Access**

4.1 License: Subject to these Terms, we grant you a limited non-exclusive, non-sublicensable, non-transferable, revocable license to access and use our services on any of your supported devices, for your own personal, noncommercial use. We grant usage subject to the laws and regulations from which these services are accessed.

4.2 Restrictions: This license does not include any resale or commercial use of the Services or its contents/components, any collection and use of any product or title listings, ratings, or descriptions; any derivative use of the Services or its contents/components; or any use of data mining, robots, or similar data gathering and extraction tools. No portion may be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose. You must retain all copyright and other proprietary notices on downloaded and copied materials, and any such downloads or copies are subject to these Terms of Use. You may also not copy, reproduce, distribute, modify, display, prepare derivative works based on, republish, transmit, repost or otherwise use this Service's content/components without prior written authorization. You may not use any metatags or any other "hidden text" utilizing Appendis' or any of its affiliates' trademarks and/or logos without expressed written consent. Any unauthorized use automatically terminates any permission or license granted.

Notwithstanding the above, any documents generated as part of the core, intended functionality of the services and website such as teacher guides, support manuals, student lists, student reports, student labs, and class reports may be printed or downloaded, as applicable, solely for your personal use or for non-commercial educational purposes. Note that such downloads may contain personally identifiable information intended only to be accessed by the users with requisite permission to do so. IT IS THE USER'S RESPONSIBILITY TO TAKE ALL PRECAUTIONS FOR GUARDING ALL MATERIALS CONTAINING PERSONALLY IDENTIFIABLE INFORMATION GENERATED BY THE SERVICES. APPRENDIS AND ITS AFFILIATES WILL NOT BE HELD RESPONSIBLE FOR ANY INFRINGEMENT OR INFRACTION OF PRIVACY FROM DOWNLOADED AND/OR SHARED MATERIALS, ON PHYSICAL HARD COPY OR VIRTUAL COPY.

## 5. Your Privacy and Your Data

Inq-ITS and Inq-Blotter are educational technology services that promote students' learning of science and help educators monitor their students' performance and track their growth. To make these services possible, we collect and store various kinds of user data.

We have established a comprehensive [Privacy Policy](#) to describe how we use these data to improve your experience and to support education research. We do not freely distribute or sell your personally identifiable information. Please read our [Privacy Policy](#), which is considered part of our Terms of Service, to learn more about our commitment to the privacy of our users and protection of your data.

## 6. User Content

6.1 Definition: "User Content" means any and all information and content that a user submits to, uses with, or shared with you from another user (e.g. a student) from the Site/Services (e.g., content in the user's profile, postings, student-submitted labs). Examples of user content include, but are not limited to: student lists, student reports, student created content (e.g. lab performances, text, answers to questions), student and class raw performance data, and class reports. You are solely responsible for your User Content, and the User Content for which you may have access (e.g. student work). You assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party. You hereby represent and warrant that your User Content does not violate our Acceptable Use Policy (Section 7). You may not represent or imply to others that your User Content is in any way provided, sponsored or endorsed by Company. Because you alone are responsible for your User Content, you may expose yourself to liability if, for example, your User Content violates the Acceptable Use Policy. Company is not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice. User content does not represent the advice, views, opinions or beliefs of Company.

6.2 License: You hereby grant (and you represent and warrant that you have the right to grant) to us an irrevocable, nonexclusive, royalty-free and fully paid, worldwide license to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use and exploit your User Content and User Content that you manage (e.g. student work), and to grant sublicenses of the foregoing rights, solely for the purposes of including your User Content in the Services

subject to the guidelines provided by our [Privacy Policy](#). You hereby irrevocably waive (and agree to cause to be waived) any claims and assertions of moral rights or attribution with respect to your User Content.

6.3 Enforcement: We reserve the right (but have no obligation) to review any User Content, and to investigate and/or take appropriate action against you in our sole discretion if you violate the Acceptable Use Policy (Section 7) or any other provision of these Terms or otherwise create liability for us or any other person. Such action may include removing or modifying your User Content, terminating your Account in accordance with Section 11, and/or reporting you to law enforcement authorities.

6.4 Feedback: If you provide us with any feedback or suggestions regarding the Site ("Feedback"), you hereby assign to us all rights in such Feedback and agree that we shall have the right to use and fully exploit such Feedback and related information in any manner we deem appropriate. We will treat any Feedback you provide to us as non-confidential and non-proprietary. You agree that you will not submit to Company any information or ideas that you consider to be confidential or proprietary.

6.5 Inappropriate content: If you find any inappropriate content on any of the Websites or during your use of the Content, we encourage you to report such inappropriate content to: [info@inqits.com](mailto:info@inqits.com).

## 7. Acceptable Use

As a condition of your use of these services, **you warrant that you will not:**

- Use or interfere with the services for any purpose that is prohibited by any law or regulation or to facilitate the violation of any law or regulation;
- Use the services for any purpose that is prohibited by these Terms (including but not limited to any use that infringes another's copyright rights);
- Use, disrupt, or interfere with the services in any manner that could damage, disable, overburden, or impair the services/sites (servers or networks connected to the Site, or violate the regulations, policies or procedures of such networks), or the owners or their affiliates;
- Collect, upload, transmit, display, or distribute any User Content (i) that violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) that is unlawful, fraudulent, harassing, abusive, tortious, threatening, harmful, invasive of another's privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual or is otherwise objectionable; (iii) that is harmful to minors in any way; (iv) that is in violation of any law, regulation, or obligations or restrictions imposed by any third party; (v) that is any trade secret of any third party; (vi) or any advertisements, solicitations, chain letters, junk mail, spam, pyramid schemes, investment opportunities or other unsolicited commercial communication.
- Use a false e-mail address, impersonate any person or entity, or otherwise mislead as to the origin of any content;
- Express or imply that any statements you make are endorsed by us, without our prior written consent;
- Remove any copyright, trademark or other proprietary rights notices contained in the Site or the materials on the Site;
- Harass other users;

- Restrict or inhibit any other visitor or member from using the Site, including, without limitation, by means of "hacking" or defacing any portion of the Site;
- Engage in spamming or flooding;
- Transmit any software or other materials that contain any viruses, worms, trojan horses, defects, date bombs, time bombs or other items of a destructive nature;
- Not to download (other than as necessary for page viewing) or modify the websites/services, or any portion them, except with our express written consent.
- Use or attempt to use any "deep link," "scraper," "robot," "bot," "spider," "data mining," "computer code" or any other automated device, program, tool; algorithm, process or methodology or manual process having similar processes or functionality, to access, acquire, copy, or monitor any portion of these webpages, any data or content found on or accessed through these webpages, or any other information without prior written consent;
- Obtain or attempt to obtain through any means any materials or information on these webpages that have not been intentionally made available either by their display on these pages or through their accessibility by a visible link on these webpages violate any measure employed to limit or prevent access to these web pages or their content; or
- Violate the security of these webpages or attempt to gain unauthorized access to the Site, web pages, data, materials, information, computer systems or networks connected to any server of these web pages, through hacking, password mining or any other means interfere or attempt to interfere with the proper working of these webpages or any activities conducted on or through these web pages, including accessing any data, content or other information prior to the time that it is intended to be available to the public on these webpages.
- Frame or utilize framing techniques or caches to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) associated with the services or the website without our express written consent.
- Upload for purposes of advertising or solicitation to buy or sell any products or services through the Websites or for creating, sharing and sending unsolicited commercial messages.
- Use software or automated agents or scripts to produce multiple accounts on the Site, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) the Site (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).
- Use the Site to harvest, collect, gather or assemble, via any means, information or data (other than User Content shared explicitly with you; see Section 6.1) regarding other users, including e-mail addresses, without their consent.

We reserve the right to take legal action against users who abuse the Websites for transmitting, posting or sending unsolicited commercial messages, including, but not limited to, removing or modifying any postings, unauthorized commercial advertisements, affiliate links, and other forms of solicitation, in its discretion without notice, suspending any or all use of the Websites or terminating the user's account.

Any unauthorized use of the services or websites automatically terminates your permission or license to use them.

## 8. Third-Party Links & Ads; Third-Party Services; Other Users

8.1 Third-Party Links & Ads: The Site may contain links to services used for enhancing the user experience and improving the Site (see Section 8.2 below and our [Privacy Policy](#) for more information). The site will not display advertisements for third parties (collectively, “Third-Party Links & Ads”).

8.2 Third-Party Services: Our Services may contain links to third-party web sites or services that are not owned or controlled by Apprendis (see our [Privacy Policy](#) for third-party services used and how they are used). We have no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services. You further acknowledge and agree that we shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such web sites or services. We strongly advise you to read the terms and conditions and privacy policies of any third party web sites or services that you visit.

8.3 Other Users: Each Site user is solely responsible for any and all of its own User Content. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content, whether provided by you or by others. We make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content. Your interactions with other Site users are solely between you and such users. You agree that Company will not be responsible for any loss or damage incurred as the result of any such interactions. If there is a dispute between you and any Site user, we are under no obligation to become involved.

8.4 Release: You hereby release and forever discharge the Company (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Site (including any interactions with, or act or omission of, other Site users or any Third-Party Links & Ads or Third-Party Services). IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

## 9. Disclaimers

We attempt to provide accurate descriptions of the services. However, we do not warrant that product descriptions or other parts of the services are accurate, complete, reliable, current, or error-free. If Content within the services is materially misrepresented, your sole remedy is to cease use of that Content and to notify us of the purported error.

*For our trial users and research partner users:* THE SITE, THE MATERIALS ON THE SITE, AND ANY PRODUCT OR SERVICE OBTAINED THROUGH THE SITE ARE PROVIDED "AS IS", "AS AVAILABLE", AND

WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, ACCURACY, MERCHANTABILITY, QUIET ENJOYMENT, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. Specifically and without limitation, APPRENDIS AND ITS AFFILIATES, LICENSORS, SUPPLIERS, SPONSORS AND AGENTS DO NOT WARRANT THE SERVICES WILL MEET YOUR REQUIREMENTS, WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE; THAT THE SITE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; THAT THE CONTENT ON THE SITE IS ENTIRELY CORRECT, ACCURATE, UP-TO-DATE, OR RELIABLE; THAT DEFECTS WILL BE CORRECTED; THAT THE SITE, THE SERVER(S) ON WHICH THE SITE IS HOSTED OR SOFTWARE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR THAT THE SITE WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. YOUR USE OF THE SITE AND ANY MATERIALS PROVIDED THROUGH THE SITE IS ENTIRELY AT YOUR OWN RISK. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SITE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE. NEITHER APPRENDIS NOR ANY OF OUR AFFILIATES, LICENSORS, SPONSORS, OR AGENTS, NOR OUR OR THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, AGENTS OR OTHER REPRESENTATIVES, ARE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF DATA OR LOST PROFITS), UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY ARISING OUT OF OR RELATING IN ANY WAY TO THE SITE AND/OR MATERIALS CONTAINED ON THE SITE, OR ANY LINKED SITE, INCLUDING WITHOUT LIMITATION ANY DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY AUTHORIZED OR UNAUTHORIZED USER, EVEN IF WE HAVE BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. YOUR SOLE REMEDY FOR DISSATISFACTION WITH THE SITE, MATERIALS OR ANY LINKED SITE IS TO STOP USING THE SITE, MATERIALS OR LINKED SITE, AS APPLICABLE. You agree to indemnify and hold Apprendis and its affiliates harmless from all claims, demands, and damages (whether actual or consequential), including reasonable attorney's fees, arising from or related to your use of this site, your violation of these Terms or any applicable laws or regulations, or your violation of any rights of another.

*For our subscribed users:* THE SITE, THE MATERIALS ON THE SITE, AND ANY PRODUCT OR SERVICE OBTAINED THROUGH THE SITE ARE PROVIDED "AS IS" ACCORDING TO THE TERMS AND CONDITIONS SET FORTH BY THE SIGNED CUSTOMER SERVICE AGREEMENT BETWEEN APPRENDIS AND YOU AND/OR YOUR REPRESENTATIVE(S). THE SOLE AND EXCLUSIVE MAXIMUM LIABILITY TO APPRENDIS AND/OR ITS AFFILIATES FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) OR OTHERWISE, SHALL BE THE TOTAL AMOUNT PAID BY YOU, IF ANY, TO ACCESS THE SITE.

## **10. Limitation on Liability**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL COMPANY (OR OUR SUPPLIERS OR AFFILIATES) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR YOUR USE OF, OR INABILITY TO USE, THE SITE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH

DAMAGES. ACCESS TO, AND USE OF, THE SITE IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF FIFTY US DOLLARS (U.S. \$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

## **11. Term and Termination**

Subject to this Section, these Terms will remain in full force and effect while you use the Site. We may suspend or terminate your rights to use the Site (including your Account) at any time for any reason at our sole discretion, including for any use of the Site in violation of these Terms. Upon termination of your rights under these Terms, your Account and right to access and use the Site will terminate immediately. You understand that any termination of your Account may involve deletion of your User Content associated with your Account from our live databases. Company will not have any liability whatsoever to you for any termination of your rights under these Terms, including for termination of your Account or deletion of your User Content. Even after your rights under these Terms are terminated, the following provisions of these Terms will remain in effect: Section 4.2, and Sections 5 through 13.

We may terminate or suspend access to our Service immediately, without prior notice or liability, for any reason whatsoever, including without limitation if you breach the Terms. All provisions of the Terms which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

## **12. Copyright Policy**

We respect the intellectual property of others and asks that users of our Site do the same. In connection with our Site, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our online Site who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Site, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

1. your physical or electronic signature;
2. identification of the copyrighted work(s) that you claim to have been infringed;
3. identification of the material on our services that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and



7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with a written notification and allegation of copyright infringement.

In accordance with the Digital Millennium Copyright Act and other applicable laws, we may terminate accounts and/or pursuing other remedies, at our sole discretion, if we suspect that the account holder has infringed our intellectual property rights or any third party.

## 13. General

13.1 Changes: These Terms are subject to occasional revision, and if we make any substantial changes, we may notify you by sending you an e-mail to the last e-mail address you provided to us (if any), and/or by prominently posting notice of the changes on our Site. You are responsible for providing us with your most current e-mail address. In the event that the last e-mail address that you have provided us is not valid, or for any reason is not capable of delivering to you the notice described above, our dispatch of the e-mail containing such notice will nonetheless constitute effective notice of the changes described in the notice. Any changes to these Terms will be effective upon the earlier of thirty (30) calendar days following our dispatch of an e-mail notice to you (if applicable) or thirty (30) calendar days following our posting of notice of the changes on our Site. These changes will be effective immediately for new users of our Site. Continued use of our Site following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

13.2 Dispute Resolution: ***Please read this Arbitration Agreement carefully. It is part of your contract with Company and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.***

- (a) *Applicability of Arbitration Agreement.* All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by the Company that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and the Company, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms.
- (b) *Notice Requirement and Informal Dispute Resolution.* Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute ("**Notice**") describing the nature and basis of the claim or dispute, and the requested relief. A Notice to the Company should be sent to: 95 Prescott St., Worcester, Massachusetts 01609. After the Notice is received, you and the Company may attempt to resolve the claim or dispute informally. If you and the Company do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may

not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.

- (c) **Arbitration Rules.** Arbitration shall be initiated through the American Arbitration Association (“**AAA**”), an established alternative dispute resolution provider (“**ADR Provider**”) that offers arbitration as set forth in this section. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms. The AAA Consumer Arbitration Rules (“**Arbitration Rules**”) governing the arbitration are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US \$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US \$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. If you reside outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearings. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If the arbitrator grants you an award that is greater than the last settlement offer that the Company made to you prior to the initiation of arbitration, the Company will pay you the greater of the award or \$2,500.00. Each party shall bear its own costs (including attorney’s fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.
- (d) *Additional Rules for Non-Appearance Based Arbitration.* If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.
- (e) *Time Limits.* If you or the Company pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the AAA Rules for the pertinent claim.
- (f) *Authority of Arbitrator.* If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and the Company, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and the Company.
- (g) *Waiver of Jury Trial.* THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and the Company in any state or federal court in a suit to vacate or

enforce an arbitration award or otherwise, YOU AND THE COMPANY WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

- (h) *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.
- (i) *Confidentiality.* All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.
- (j) *Severability.* If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.
- (k) *Right to Waive.* Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.
- (l) *Survival of Agreement.* This Arbitration Agreement will survive the termination of your relationship with Company.
- (m) *Small Claims Court.* Notwithstanding the foregoing, either you or the Company may bring an individual action in small claims court.
- (n) *Emergency Equitable Relief.* Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.
- (o) *Claims Not Subject to Arbitration.* Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.
- (p) *Courts.* In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within Worcester County, Massachusetts, for such purpose

13.3 Export: The Site may be subject to U.S. export control laws and may be subject to export or import regulations in other countries. You agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Company, or any products utilizing such data, in violation of the United States export laws or regulations.

13.4 Disclosures: Company is located at the address in Section 10.8. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Product of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

13.5 Electronic Communications: The communications between you and Company use electronic means, whether you use the Site or send us emails, or whether Company posts notices on the Site or communicates with you via email. For contractual purposes, you (a) consent to receive communications from Company in an electronic form; and (b) agree that all terms and conditions, agreements, notices,

disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

13.6 Entire Terms: These Terms constitute the entire agreement between you and us regarding the use of the Site. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word “including” means “including without limitation”. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Your relationship to Company is that of an independent contractor, and neither party is an agent or partner of the other. These Terms, and your rights and obligations herein, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Company’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. Company may freely assign these Terms. The terms and conditions set forth in these Terms shall be binding upon assignees.

13.7 Copyright/Trademark Information: Copyright © 2016 Apprendis LLC. All rights reserved. All trademarks, logos and service marks (“Marks”) displayed on the Site are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

13.8 Waiver: Any waiver of any provision of the Terms of Use will be effective only if in writing and signed by the waiving party.

13.9: Changes: You agree to check our Terms of Use periodically for new information and terms that govern your use of the Services. We reserve the right to make changes to the Services, our policies, and these Terms of Use at any time. Posting the modified Terms of Use or Privacy Policy on the Websites will give effect to the revised terms. Your continued use of the Websites and/or the Content indicates your acceptance of any revised terms. If you do not agree to the revised terms, please refrain from using the Services and/or leave. If any of the terms or conditions in these Terms of Use shall be deemed invalid, void, or for any reason unenforceable, that condition shall be deemed severable and shall not affect the validity and enforceability of any remaining condition.

13.10 Contact Information:

Apprendis  
57 Village Court  
Berlin, Massachusetts 01503  
Email: [info@inqits.com](mailto:info@inqits.com)

## 14. Indemnification

You agree to indemnify and hold Company (and its officers, employees, and agents) harmless, including costs and attorneys' fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Site, (b) your violation of these Terms, (c) your violation of applicable laws or regulations or (d) your User Content. Company reserves the right to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Company. Company will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with our defense of such claim. We may deduct its costs of obtaining any recovery from the amount of the recovery (including, without limitation, reasonable attorneys' fees and all other costs).

*The following additional term apply should you choose to purchase Inq-ITS*

## **Software as a Service (“SAAS”) Subscription Purchase Agreement**

Last updated: 12/27/2021

This SAAS Subscription Agreement (“Agreement”), governs the use by Customer of the master controllers, and other equipment, parts and supplies (collectively, the “SAAS System”), and the services provided by Service Provider in connection with the SAAS System (the “SAAS Services”). This Agreement includes (1) each Order Form that provides the type, quantity and payment terms for the Products purchased from Service Provider and the SAAS Services, (2) the Terms of Purchase and Use found at <http://content.inqits.com/docs/UserTermsOfService.pdf> as in effect from time to time, and (3) the Pre-Deployment Checklist executed by the parties. In the event of conflict among terms, the order of priority shall be the Order Forms, this Agreement, the Terms of Purchase and Use, and then the Pre-Deployment Checklist.

1. Service Provider agrees to sell the Products and provide the SAAS Services described in each Order Form, and Customer agrees to pay for the Products and SAAS Services and comply with the terms and conditions set forth in this SAAS Subscription Agreement, each Order Form, and the Terms of Purchase and Use. As provided in each Order Form, the Products to be purchased may include master controllers configured to communicate with the Service Provider network operations center (each a “Gateway”) and/or activation kit(s) or other devices (the “Devices”) listed in the Order Form. The Products shall be for use in connection with accessing the SAAS System and use of the SAAS Services, for Customer's internal business purposes. The Fees for the Products are shown in the Order Form. Subsequent purchases of Products shall be made only from Service Provider, and shall be subject to the terms and conditions of this Agreement.

2. The Term of Service, and specific features provided to Customer as part of the SAAS Services is indicated in the Order Form(s) for the SAAS Services. The SAAS Services may be accessed and used only by the numbers / types of Users for the Fees, also specified in the Order Form(s). For each *new Teacher User Account*, a unique code will be given to Customer that will enable Teacher Users to create a user name (User ID) and password that can be used to access the SAAS System and SAAS Services. Teacher Users can then share internal codes with Student Users, up to the limit specified in the Order Form(s), who can also create accounts to access the System and Services. For each *existing Teacher Account*, the unique code will be applied and those specific features will be unlocked.

3. Following expiration of the Initial Term, the Term of Service will automatically renew for successive periods of one (1) year each unless and until either party gives the other party notice of non-renewal at least 60 days prior to the next scheduled renewal date. Customer may elect Early Termination of the Services solely as permitted in the Terms of Purchase and Use for the Services.

4. Service Provider grants to Customer a limited, non-exclusive, terminable, non-transferable license to access the SAAS Services through the SAAS System, or by any other means on which the parties may agree, and to use the SAAS Services during the Term or Service, subject to the Terms of Purchase and

Use located at <https://content.inqits.com/docs/UserTermsOfService.pdf>, as Service Provider may revise such Terms of Use from time to time.

5. All other terms and conditions that are part of this Agreement shall be as set forth in the Terms of Purchase and Use, and this Agreement (inclusive of the Terms of Purchase and Use), and all Order Forms completed and approved pursuant to this Agreement, constitute the complete and exclusive terms of the agreement between the parties regarding the subject matter and supersedes all other prior and contemporaneous agreements or communications with respect to the subject matter hereof. In the event of a direct conflict between the terms of this Agreement and the terms of the then-current Terms of Use, the terms of this Agreement shall control.

6. Customer represents and warrants that Customer has all necessary authorization to purchase and pay for the Products and SAAS Services indicated in each Order Form.

7. Customer agrees to provide the necessary electric service, wiring, computer equipment, and communication line access (in accordance with UL standards) for access to the SAAS Services. Customer agrees to provide, install and maintain, at Customer's expense, data communication lines therefor, all pursuant to minimum specifications prescribed by Service Provider from time to time. Customer shall be responsible for ongoing charges for Customer's own use of such data communication lines.

8. In addition to the initial Order Form, the parties may enter into one or more additional Order Forms, each of which provides a general description of the Products and SAAS Services to be provided to Customer. For any Order Form to be effective, it must be in writing and signed or otherwise authenticated by Customer. Electronic and fax documents are considered to be in writing for this purpose. All terms and conditions set forth in this SAAS Subscription Agreement are automatically incorporated in, and deemed part of, each such Order Form.

9. If there is any conflict between the terms of an Order Form and the terms of this SAAS Subscription Agreement or the Terms of Purchase and Use, then the terms of the Order Form shall control. Each Order Form, as supplemented by the terms of this SAAS Subscription Agreement and the Terms of Purchase and Use, constitutes an entire and separate agreement between the parties regarding the Products and SAAS Services covered by that Order Form, and supersedes any other prior oral or written understandings and agreements of the parties regarding the Products and SAAS Services covered by that Order Form. Any provisions contained in Customer's own purchase order forms, such as preprinted terms and conditions typically found on their reverse side, shall not apply and are superseded in their entirety by the provisions of this Subscription Agreement, including the applicable Order Form.

THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL NOT BE BINDING UNTIL FULLY EXECUTED BY AN AUTHORIZED SIGNATORY FOR BOTH CUSTOMER AND SERVICE PROVIDER (OR ITS APPLICABLE AFFILIATE). BY SIGNING THE ORDER FORM(S) YOU AGREE TO THE TERMS OF THE ORDER FORM(S), THIS SUBSCRIPTION AGREEMENT, THE TERMS OF PURCHASE AND USE, AND OUR PRIVACY POLICY.

## General Description of SAAS Services

Specific details of the features and limitations of the SAAS Services provided are listed in the Order Form(s). Most generally, the SAAS Services may include:

- Access by Customer and its associated Users through the SAAS Customer Web-based Portal as defined in the Order Form(s).
- An authorized User License (Web Portal) for the number of Authorized Users set forth in the Order Form(s), including on-going hosting enabling access to the Portal.
- Installation Services identified in the Order Form(s).
- Training Services as defined in the Order Form(s).
- Support Services: Support Services include unlimited remote service and support during normal business hours and 24x7 for emergency support. Customer will designate one individual who will be the authorized point of contact for all technical support communications between Service Provider and Customer at all times. Service Provider will use commercially reasonable efforts to keep the SAAS System available on a 24 hour a day, 7 day a week basis, via web site access utilizing the Minimum Configuration, subject to occasional scheduled downtime (during non-working hours, for short periods of time, typically on weekends and communicated in advance) for maintenance purposes, unforeseen maintenance and systems outages, or routine testing of the Services. As used herein, "Minimum Configuration" means the minimum configuration of client hardware and software required to access the Services, which, shall be that users have an Internet connection and the latest version of the following browsers:
  - PC: Mozilla Firefox, Chrome
  - Mac: Mozilla Firefox, Chrome, Safari
  - iPad: Chrome, Safari
  - Chromebook: Chrome
  - Other tablet (excluding phones): Chrome

## Terms of Purchase and Use

**PLEASE READ CAREFULLY BEFORE PURCHASING THE PRODUCTS AND USING THIS SAAS SERVICE. BY PURCHASING THE PRODUCTS, AND/OR ACCESSING AND USING THE SAAS SERVICE AND THE ASSOCIATED WEBSITE, APPLICATIONS AND TOOLS, YOU AGREE TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS SET FORTH HEREIN. THESE TERMS OF PURCHASE AND USE FORM PART OF THE SAAS SUBSCRIPTION AGREEMENT, WHICH YOU ARE REQUIRED TO ACCEPT IN CONNECTION WITH YOUR INITIAL AND ALL SUBSEQUENT PURCHASING OF THE PRODUCTS AND USE OF THE SAAS SERVICE.**

## Purchase of Products

You agree to purchase the Products consisting generally of the software programs incorporated into the master controllers, and other equipment, parts and supplies shown in each Order Form that is completed and approved under the SAAS Subscription Agreement.

If the Order Form provides a schedule for delivery, the schedule is an estimate and is subject to availability of the Products, readiness of the site for installation, and scheduling of installers, as



applicable. In the event the Products are not be available within a reasonable period of time of the scheduled delivery, you may at your option (a) terminate the purchase of undelivered Products, or (b) to accept postponement of delivery until such time as Service Provider can complete the delivery of the Products. In no event shall Service Provider be liable to you or any users for any delay or impact costs or damages associated with any late, partial or incomplete delivery.

Unless otherwise indicated in the Order Form, delivery of all Products will be F.O.B. manufacturer. All transportation, handling and insurance costs incurred in delivery will be charged to you. Service Provider or its vendors may arrange for, and prepay, transportation, handling and insurance with the understanding that these charges will be invoiced to and paid by you. In addition, the expense for any special crating or handling required shall be your responsibility.

You may inspect the Products within ten (10) days after arrival and installation and conduct appropriate testing to ascertain whether the Products conform to their Specifications. Failure to notify Service Provider within that period of time shall be considered acceptance of the Products. Any such acceptance shall be without prejudice to any warranties provided by the original manufacturer of the Products or maintenance terms purchased from Service Provider or such manufacturer. UPON ACCEPTANCE OF THE PRODUCTS, THE PURCHASE SHALL BE NON-CANCELLABLE AND IRREVOCABLE, AND PAYMENT DUE SERVICE PROVIDER SHALL BE UNCONDITIONAL.

Unless otherwise indicated in the Order Form, you agree to be responsible for all site preparation, including utility connections and procurement of necessary equipment or peripheral devices, and for installation of the Products.

You are advised that it is your responsibility to determine whether to purchase and pay for extended warranty service, maintenance, installation assistance, training or customer support available for the goods. If Service Provider provides any such service in connection with the Products, Service Provider does so on terms and prices provided in an Order Form completed and approved by Service Provider.

Orders accepted by Service Provider may not be cancelled by you except with Service Provider's written authorization.

### **SAAS Services; Grant of Rights**

If SAAS Services are obtained pursuant to an Order Form, Service Provider grants you and your staff (collectively, the "Users"), for the Term of Service indicated in the Order Form, a limited, non-exclusive, terminable, non-transferable license to access and use the services, tools and applications provided through the SAAS Service subject to these Terms of Purchase and Use. The SAAS Service may include download areas and product information provided by Service Provider or third-party vendors. All SAAS Services, including any updates, enhancements, new features, and/or the addition of any new Web properties, are subject to these Terms of Purchase and Use. All rights not expressly granted to you and your Users pursuant to the SAAS Subscription Agreement are reserved to Service Provider, and all uses of the SAAS Service not expressly permitted hereunder are prohibited.

**Upgrades:**

Service Provider reserves the right to upgrade, modify, replace or reconfigure the SAAS Services at any time, provided that you will be provided at least thirty (30) days' advance notice for changes that materially and adversely affect any use of the SAAS Services. Service Provider may also change the fee schedule, support terms, and service level agreements for the SAAS Services subject to at least thirty (30) days' advance notice, except that the change will not apply for the remainder of the Term of Service to the amount and type of SAAS Services you have contracted for under existing Order Forms. Any such notice may be given and shall be effective if posted by Service Provider in the "Subscriber Alert" section of Service Provider's website, or if provided in an email sent to your account representative, or if included in any amendment, extension or new version of this Agreement or any Order Form.

**Payments, etc.**

You agree to pay at the time indicated in each Order Form all payments due from you thereunder. If not otherwise indicated in the Order Form, all payments are due thirty (30) days from invoice.

You agree to accept responsibility for paying and reporting (a) all federal, provincial, state and local taxes, however designated, levied or based on account of the purchase price of the Products or SAAS Services or on account of your acquisition or ownership or use of the Products (exclusive only of taxes based on net income derived by Service Provider), and (b) all foreign taxes, export or import tariffs, and custom duties, however designated, levied or based in connection with the sale conducted hereby, the purchase price of the Products and the SAAS Services, or your acquisition or ownership or use of the Products. You agree to hold Service Provider harmless from all claims and liability arising in connection with Customer's failure to report or pay such taxes.

You agree that Service Provider and its assigns shall have a security interest in the Products until you have paid in full the total purchase price of those Products shown in each applicable Order Form. You agree that this agreement shall be a security agreement as defined by the Uniform Commercial Code in effect in the jurisdiction in which the Products are located and Service Provider is authorized to execute and file financing statement or other recordings in order to document the security interest.

In the event that you default in any of the terms and conditions of the SAAS Subscription Agreement, including these Terms of Purchase and Use and any Order Forms completed and approved thereunder, or a petition for bankruptcy is filed by or against you, then, to the extent permitted by applicable law, Service Provider shall have the right to exercise one or more of the following remedies: (a) To declare the entire amount of the unpaid total purchase price due and payable plus all service fees that would otherwise come due for the remainder of the Term of Service, together with interest thereon at the lesser of 18% per annum or the then highest allowable legal rate per annum; (b) Without demand or legal process, you authorize Service Provider's agents to enter into the premises where the Products may be found and take possession and remove the same and you specifically waive any claim or right of

action for trespass or damages in connection with Service Provider's exercise of such right. Service Provider shall have the right to sell, lease or retain the Products in complete or partial satisfaction of any outstanding claim and to retain all prior payments in respect of the purchase price or Products and previously accrued service fees. Notwithstanding the taking of possession by Service Provider of the Products, you shall remain liable for the total purchase price for the Products and all service fees that would otherwise come due for the remainder of the Term of Service; and/or (c) To terminate this Agreement as to any or all of the Order Forms. All remedies of Service Provider hereunder are cumulative and may, to the extent permitted by law, be exercised concurrently or consecutively and jointly or severally, and the exercise of any one remedy shall not be deemed to be an election of such remedy to preclude the exercise of any other remedy. No failure on the part of Service Provider to exercise, and no delay in exercising any right or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by Service Provider of any right or remedy hereunder preclude any other or further exercise of any partially exercised right or remedy.

### **Notice Specific to Software Available with the SAAS Services**

Any software that is made available to download from the SAAS Services ("Software") is the copyrighted work of Service Provider and/or its suppliers. Use of the Software is governed by the terms of the end user license agreement, if any, which accompanies or is included with the Software ("License Agreement"). In some cases, you or a User may be unable to install any Software that is accompanied by or includes a License Agreement, unless you first agree to the License Agreement terms.

The Software so provided is made available for download solely for use according to the License Agreement. Any reproduction or redistribution of the Software not in accordance with the License Agreement is expressly prohibited by law, and may result in civil and criminal penalties. WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED, UNLESS SUCH REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PERMITTED BY THE LICENSE AGREEMENT ACCOMPANYING SUCH SOFTWARE.

RESTRICTED RIGHTS LEGEND. Any Software which is downloaded from the Services for or on behalf of the United States of America, its agencies and/or instrumentalities ("U.S. Government"), is provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software -- Restricted Rights at 48 CFR 52.227-19, as applicable.

### **Changes to Terms of Use**

**SERVICE PROVIDER RESERVES THE RIGHT TO CHANGE THESE TERMS OF PURCHASE AND USE FROM TIME TO TIME. SUCH CHANGES WILL BECOME EFFECTIVE WHEN SAAS POSTS THE REVISED TERMS OF USE AS PART OF THE SERVICE OR ON ANY RELATED WEBSITE. THE MOST CURRENT VERSION OF THE TERMS OF USE CAN BE REVIEWED BY CLICKING ON THE "TERMS OF PURCHASE AND USE" HYPERTEXT LINK LOCATED IN THE HOME PAGE FOR THE SERVICE. USERS SHOULD CHECK THE TERMS OF USE FROM TIME TO TIME, AS THEY ARE BOUND BY THE TERMS OF USE SO POSTED FROM AND**

**AFTER THE TIME THE CHANGES ARE POSTED. ANY REVISED TERMS OF USE SHALL SUPERSEDE ALL PREVIOUS VERSIONS.**

**Termination of the SAAS Subscription Agreement; Effect of Termination or Expiration**

In the event that you breach any term of the SAAS Subscription Agreement, or you or your Users breach these Terms of Purchase and Use, and such breach is not cured within 10 days after receipt of notice thereof from Service Provider, Service Provider may terminate the SAAS Subscription Agreement in whole or in part immediately upon written notice to you. Notwithstanding the foregoing, there shall be no cure period for any Event of Default that is not curable.

Upon expiration or prior termination of the SAAS Subscription Agreement, all rights granted herein shall revert to Service Provider. All access to and use of the SAAS Services by Users must then cease, and all materials, applications and tools downloaded from the SAAS Service must be erased, deleted, or destroyed.

**No Warranties, Limitation of Liability**

**To the extent that the original manufacturer is not Service Provider or its affiliates and such manufacturer makes any warranties covering the Products, Service Provider assigns those warranties to you, subject to the conditions and limitations provided by the manufacturer. Service Provider will cooperate with you, at your cost, to process any warranty claim, but Service Provider assumes no other responsibility for such warranties. THE FOREGOING ASSIGNMENT OF WARRANTIES IS EXPRESSLY IN LIEU OF ANY AND ALL OTHER WARRANTIES PERTAINING TO THE PRODUCTS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS WARRANTY ARISING FROM ANY DESCRIPTION OR SPECIFICATION PROVIDED FOR THE PRODUCTS, OR ANY SAMPLE OR MODEL PRESENTED TO YOU OR YOUR REPRESENTATIVES, OR ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, OR TITLE. YOUR EXCLUSIVE REMEDY FOR ANY CLAIM BASED ON THE CONDITION, PERFORMANCE, DEFECT OR NON-CONFORMITY OF THE PRODUCTS SHALL BE TO MAKE A CLAIM TO THE ORIGINAL MANUFACTURER FOR THE WARRANTIES (IF ANY) PROVIDED BY THE ORIGINAL MANUFACTURER.**

**THE SAAS SERVICES AND ANY TOOLS, APPLICATIONS, INFORMATION OR MATERIALS PROVIDED TO YOU IN CONNECTION WITH THE SAAS SERVICES ARE PROVIDED "AS IS," AND ALL WARRANTIES OF ANY KIND, PAST OR PRESENT, WHETHER STATUTORY, COMMON-LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, RESULTS OR OUTPUT, SECURITY AND, EXCEPT AS MAY BE OTHERWISE STATED IN THIS AGREEMENT, NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW. SAAS DOES NOT GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR ACCURACY OF THE SAAS SERVICES.**

**NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SERVICE PROVIDER OR ITS EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF SAAS'S OBLIGATIONS HEREUNDER.**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL SERVICE PROVIDER (OR ANY OF SERVICE PROVIDER'S DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OR ANY OTHER MEMBER OF THE SERVICE PROVIDER GROUP) BE LIABLE TO CUSTOMER, CUSTOMER'S USERS OR ANY OTHER PERSON FOR ANY LOST OR CORRUPTED DATA, DOWNTIME, LOST PROFITS, LOST REVENUES, DIMINUTION IN VALUE, BUSINESS INTERRUPTION, REPLACEMENT SERVICE OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, ENHANCED OR INDIRECT DAMAGES ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT (OR ANY BREACH OF THIS AGREEMENT), REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT SERVICE PROVIDER (OR ANY OF SERVICE PROVIDER'S DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OR ANY OTHER MEMBER OF THE SERVICE PROVIDER GROUP) WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY TO CUSTOMER, CUSTOMER'S USERS OR ANY OTHER PERSON ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED 100% OF THE TOTAL OF THE AMOUNTS PAID BY CUSTOMER TO SERVICE PROVIDER PURSUANT TO THIS AGREEMENT IN THE 6-MONTH PERIOD PRECEDING THE EVENT (OR, IF MULTIPLE EVENTS, THE FIRST OF SUCH EVENTS) GIVING RISE TO THE CLAIM FOR LIABILITY**

Service Provider and its affiliates shall not be liable for loss, injury or damage of any kind to any person or entity resulting from any use, condition, performance, defect or failure in the Products or the SAAS Services. You and your Users release and waive all claims against Service Provider, its parent, subsidiaries, affiliated companies, agents or content providers, and the directors, trustees, officers, shareholders, employees, agents and representatives of each of the foregoing (the "Service Provider Group"), from any and all claims, damages, liabilities, costs and expenses arising out of your and your Users' use of the Products and the SAAS Services. California residents waive any rights they may have under §1542 of the California Civil Code, which reads: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." You and your Users agree to release unknown claims and waive all available rights under California Civil Code §1542 or under any other statute or common law principle of similar effect. To the extent permitted by applicable law, this release covers all such claims regardless of the negligence of the Service Provider Group. Customer shall indemnify and hold harmless Service Provider (and Service Provider's directors, officers, employees or agents and other members of the Service Provider Group) against any and all claims, damages, liabilities, costs and expenses, which Service Provider (or Service Provider's directors, officers, employees or agents or other members of the Service Provider Group) may suffer arising from, relating to, or as a result of any claims, allegations, acts or omissions by Customer's Users.

### **Subscriber Representations**

You represent and warrant that (i) you have full power and authority to enter into the SAAS Subscription Agreement, and to agree to all the terms and conditions contained therein and in these Terms of Purchase and Use; (ii) only you and your Users shall per permitted to access the SAAS Services

and any related tools, applications, information and materials provided in connection with the SAAS Services; and (iii) you shall obtain and maintain in effect all permits, licenses and authorizations necessary for the purchase and intended use of the Products and the SAAS Services.

### **Reporting Infringement**

By accessing and/or using the SAAS Services, Users agree to report to Service Provider all claims or suspected claims of copyright or other infringement of Service Provider's intellectual property or other proprietary rights. Claims of infringement should be directed to Legal Department, Service Provider at info@inqits.com

If you believe that any information on the SAAS Site infringes on your copyright, you should notify Service Provider of your claim in accordance with the following procedures. Service Provider will process notices of alleged infringement in accordance with the Digital Millennium Copyright Act ("DMCA") and other applicable copyright laws. The DMCA requires that notification of claimed infringement be in writing and provided to Service Provider's designated agent of service:

Janice Gobert  
Janice@apprendis.com

To be effective, the notice of infringement must contain the following information: (1) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed; (2) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site; (3) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material; (4) Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted; (5) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and (6) A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

### **Miscellaneous.**

Failure to perform by reason of any law, natural disaster, labor controversy, encumbered intellectual property right, war or any similar event beyond a party's reasonable control shall not be a breach hereof.

Service Provider shall not be liable for any loss or damage of any kind or for any consequences thereof resulting from delay or inability to deliver caused by strikes, lockouts, fire, theft, shortage, inability to obtain materials or shipping space, breakdowns, delays or carriers, manufacturers, or suppliers, acts of God, governmental statutes, proclamations or regulations, riot, civil commotion, war,

malicious mischief, receipt of necessary information from Customer, or by any cause beyond your reasonable control.

You acknowledge and agree that the SAAS Services and the tools, applications, information and materials provided in connection with the SAAS Services possess a special, unique and extraordinary character that makes difficult the assessment of the monetary damages that would be sustained as a result of unauthorized use, and that unauthorized use may cause immediate and irreparable damage to Service Provider or other Subscribers for which Service Provider or such other Subscribers would not have an adequate remedy at law. Therefore, you agree that, in the event of such unauthorized use, in addition to such other legal and equitable rights and remedies as may be available to Service Provider, Service Provider shall be entitled to injunctive and other equitable relief without the necessity of proving damages or furnishing a bond or other security.

This Agreement shall be construed and enforced under the laws of the State of Massachusetts, USA without reference to the choice of law principles thereof. User hereby consents to and submits to the jurisdiction of the federal and state courts located in the State of Massachusetts. User waives any defenses based upon lack of personal jurisdiction or venue, or inconvenient forum.

If any provision herein is unenforceable, then such provision shall be of no effect on any other provision hereof.

No waiver of any breach hereof shall be deemed a waiver of any other breach hereof.

Section headings are provided for convenience only, and shall not be used to construe the meaning of any section hereof.