

**SAFER BUILDINGS COALITION
END-USER LICENSE AGREEMENT
NON-MEMBER / PUBLIC USERS**

THIS AGREEMENT is a binding agreement between Safer Buildings Coalition (“LICENSOR”) and you and, if applicable, the company or other legal entity you represent (“LICENSEE”) (collectively, the “PARTIES”). By receiving and using the material(s), product(s), or service(s) delivered under this Agreement, you agree to be bound by the terms and conditions of this Agreement. If you are entering into this Agreement on behalf of a company or other legal entity, you represent that you have the legal authority to bind the legal entity to this Agreement, in which case “you” shall mean such entity.

RECITALS

WHEREAS, LICENSOR is the sole and exclusive owner of, or has acquired rights to, certain copyrighted material known as Safer Buildings Coalition Content (the “Licensed Materials”);

WHEREAS, LICENSOR has the power and authority to grant to LICENSEE the right, privilege, and license to use the Licensed Materials;

WHEREAS, LICENSEE desires to use such Licensed Materials; and

WHEREAS, LICENSOR desires to grant to LICENSEE and LICENSEE desires to obtain from LICENSOR a non-exclusive license to use the Licensed Materials and related Documentation solely in accordance with the terms and on the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the promises and agreements set forth herein, the parties, each intending to be legally bound hereby, do promise and agree as follows.

1. DEFINITIONS

A. “Licensed Materials” shall mean the content produced by LICENSOR known as Safer Buildings Coalition Content as delivered by LICENSOR to the LICENSEE, together with all additions, enhancements, modifications, updates, and successors thereto which LICENSOR may, in its sole discretion, make available to LICENSEE from time to time. “Licensed Materials” may include, but is not limited to, technical reference material, editorial content, training material, and market research material, which may be delivered by LICENSOR in a variety of formats, including art, text, audio, and video. “Licensed Materials” does not include materials that are made publicly-available and without conditions by LICENSOR.

B. “Documentation” shall mean all manuals, user documentation, and other related materials pertaining to the Licensed Materials which are furnished to LICENSEE by LICENSOR in connection with the License Materials.

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B. LICENSEE may not grant any sublicenses to any third party without the prior express written consent of LICENSOR which may be withheld for any reason.

3. DELIVERY

LICENSOR shall deliver to LICENSEE copies of the Licensed Materials licensed hereunder primarily in electronic format, but reserves the right to deliver the License Materials in hard copy format.

4. LICENSEE OBLIGATIONS/CONDITIONS

A. In consideration of the license granted herein, LICENSEE shall (1) prominently provide attribution to LICENSOR in all use of the Licensed Materials as detailed in Exhibit A; and (2) be an active and compliant member of LICENSOR; and (3) disclose and deliver to LICENSOR any material errors discovered and corrections made by LICENSEE.

B. With respect to any errors and corrections disclosed and delivered by LICENSEE to LICENSOR pursuant to Section 5(A)(3) above, LICENSEE hereby grants LICENSOR an exclusive, fully-paid, irrevocable, royalty-free license to reproduce, distribute, perform, publicly display, and otherwise use any such corrections and to sublicense the foregoing rights.

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D. LICENSEE may not use the Licensed Materials, by juxtaposition or any other manner, that would suggest in any way the LICENSOR endorses any product or service.

E. LICENSEE may not alter, reformat, obliterate, or change in any way the original version of the Licensed Materials.

5. PROTECTION OF LICENSED MATERIALS

A. Proprietary Notices. LICENSEE agrees to respect and not to remove, obliterate, or cancel from view any copyright, confidentiality, or other proprietary notice appearing on any of the Licensed Materials.

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6. WARRANTIES; SUPERIOR RIGHTS

A. Ownership. Except for any rights as set forth herein, LICENSOR represents its belief that it is the owner of the entire right, title, and interest in and to Licensed Materials, and that it has the sole right to grant licenses there under, and that it has not knowingly granted licenses there under to any other entity that would restrict rights granted hereunder except as stated herein.

B. Disclaimer of Warranties. LICENSOR DOES NOT REPRESENT OR WARRANT THAT ALL ERRORS IN THE LICENSED MATERIALS AND DOCUMENTATION WILL BE CORRECTED. THE WARRANTIES STATED IN THIS SECTION ARE THE SOLE AND THE EXCLUSIVE WARRANTIES OFFERED BY LICENSOR. THERE ARE NO OTHER WARRANTIES RESPECTING THE LICENSED MATERIALS AND DOCUMENTATION OR SERVICES PROVIDED HEREUNDER, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF LICENSOR HAS BEEN INFORMED OF SUCH PURPOSE. NO AGENT OF LICENSOR IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF LICENSOR AS SET FORTH HEREIN.

C. Limitation of Liability. LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSOR SHALL NOT BE RESPONSIBLE TO LICENSEE FOR ANY LOSS-OF-PROFIT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE LICENSING OR USE OF THE LICENSED MATERIALS OR DOCUMENTATION. Any provision herein to the contrary notwithstanding, the maximum liability of LICENSOR to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of any Licensed Materials delivered to LICENSEE hereunder, whether such liability arises from any claim based on breach or repudiation of contract, warranty, tort or otherwise, shall in no case exceed the actual price paid to LICENSOR by LICENSEE for the Licensed Materials whose license, use, or other employment gives rise to the liability. The essential purpose of this provision is to limit the potential liability of LICENSOR arising out of this Agreement. The parties acknowledge that the limitations set forth in this Section are integral to the amount of consideration levied in connection with the license of the Licensed Materials and Documentation and any services rendered hereunder and that, were LICENSOR to assume any further liability other than as set forth herein, such consideration would of necessity be set substantially higher.

7. GOVERNMENT CONTRACTS

If the Licensed Materials or Documentation to be furnished hereunder are to be used in the performance of a government contract or subcontract, the Licensed Materials shall be provided on a “restricted rights” basis only and LICENSEE shall place a legend, in addition to applicable copyright notices, in the form provided under the governmental regulations. LICENSOR shall not be subject to any flow down provisions required by the governmental customer unless agreed to by LICENSOR in writing.

8. TERMINATION

A. LICENSOR may terminate or suspend this Agreement if LICENSEE breaches any material provision of this Agreement or is no longer a member of LICENSOR. LICENSOR’s right to terminate this Agreement is in addition to any other rights and remedies that may be available to LICENSOR, whether at law, in equity, or otherwise.

B. LICENSEE may terminate this Agreement upon thirty (30) days written notice to LICENSOR.

C. Upon termination of this Agreement, LICENSEE shall provide LICENSOR with a complete schedule of all inventory of Licensed Materials then on-hand (the “Inventory”).

D. Upon the termination of this Agreement, all of the rights of LICENSEE under this Agreement shall forthwith terminate and immediately revert to LICENSOR and LICENSEE shall immediately discontinue all use of the Licensed Materials and the like, at no cost whatsoever to LICENSOR.

E. Upon termination of this Agreement for any reasons whatsoever, LICENSEE agrees to immediately return to LICENSOR all material relating to the Licensed Materials at no cost whatsoever to LICENSOR.

9. INDEMNITY

A. LICENSEE agrees to defend, indemnify and hold LICENSOR, its officers, directors, agents and employees, harmless against all costs, expenses and losses (including reasonable attorneys’ fees and costs) incurred through claims of third parties against LICENSOR based on the use of the Licensed Materials by LICENSEE.

10. JURISDICTION AND DISPUTES

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, excluding its conflict of law principles. You agree to the personal jurisdiction by and venue in the state and federal courts of Douglas County, Oregon, and waive any objection to such jurisdiction or venue. If for any reason a court of competent jurisdiction finds any provision, or portion thereof, to be unenforceable, the remainder of the terms of this Agreement shall continue in full force and effect.

11. AGREEMENT BINDING ON SUCCESSORS

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, administrators, successors, and assigns.

12. WAIVER

No waiver by either party of any default shall be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement.

13. SEVERABILITY

If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other provision and such invalid provision shall be deemed to be severed from the Agreement.

14. ASSIGNABILITY

The license granted hereunder is personal to LICENSEE and may not be transferred or assigned by any act of LICENSEE or by operation of law unless in connection with a transfer of substantially all the assets of LICENSEE or with the consent of LICENSOR.

15. INTEGRATION

This Agreement constitutes the entire understanding of the parties, and revokes and supersedes all prior agreements between the parties and is intended as a final expression of their Agreement. It shall not be modified or amended except in writing signed by the parties hereto and specifically referring to this Agreement. This Agreement shall take precedence over any other documents that may be in conflict therewith.

EXHIBIT A

1. ATTRIBUTION GUIDELINES

A. EXACT, UNALTERED RE-USE OF CONTENT

Where LICENSOR has provided art-ready content to LICENSEE, all necessary attributions, copyrights, and notices SHOULD already be included on the material. Provided that such notices are present, LICENSEE may print or reuse such content as-is so long as NO alterations are made.

B. RE-USE OF LICENSOR CONTENT (WHITE LABELING)

WHITE LABELING Definition: Where LICENSEE wishes to add branding, more content, or to reformat the LICENSORS content.

WHITE LABELING OF THIS Licensed Material is NOT AUTHORIZED.

C. NO FINE PRINT

Attribution size, location, color, and background should be formatted in such a way that:

- a. Attribution is always legible and obvious.
- b. Font used is proportionate in size to the font size used in the body of the LICENSEE material.