

ContentDepot[®] Distribution System User Agreement

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS ESSENTIAL INFORMATION ABOUT YOUR RIGHTS AND RESPONSIBILITIES FOR USE OF THE CONTENTDEPOT[®] DISTRIBUTION SYSTEM.

YOU MUST ABIDE BY ITS TERMS AND ENSURE THAT YOU DO NOT ACCESS, USE OR PROVIDE CONTENT WITHOUT PROPER AUTHORIZATION.

UNAUTHORIZED ACTIVITIES MAY SUBJECT YOU TO LEGAL AND FINANCIAL LIABILITY FOR VIOLATING COPYRIGHT, TRADEMARK, AND OTHER APPLICABLE LAWS.

This ContentDepot[®] Distribution System User Agreement (this "Agreement") is made by and between National Public Radio, Inc., a District of Columbia nonprofit corporation, and _____ (referred to in this Agreement as either "you" or the "User"), as of the Effective Date (as defined in this Agreement).

1. Introductory Terms

- 1.1 Entry into Agreement; Authorized Signatories. National Public Radio, Inc. ("NPR") is making available to you, under the terms of this Agreement, the services of the ContentDepot (as defined in Section 1.3) for Content (as defined in Section 1.2) that you access, use or provide.

This Agreement is to be signed by an authorized signatory of the User, which signature will be delivered to NPR by means of a standardized electronic signature process. The Agreement will become effective on the date that the authorized signatory executes the Agreement and indicates the date on the signature page to this Agreement (the "Effective Date"). By delivering an electronic signature to NPR you acknowledge to NPR that you have read and understand this Agreement, that you intend to enter into a valid and enforceable agreement with NPR by providing an electronic signature, and that you agree to the terms of this Agreement. The authorized signatory who delivers an electronic signature is responsible for determining whether the authorized signatory has the proper authorization to execute and deliver this Agreement on your behalf.

You may access the ContentDepot only after you deliver an executed signature page to NPR and only to the extent that you have the right and are authorized to do so. You have full and sole responsibility for determining whether you have the necessary rights and authorizations. Any administrator, staff member of your organization, or other person who accesses the ContentDepot is responsible for determining whether the person has the proper authorization to access the ContentDepot on behalf of the User.

In addition, the access to any part of the ContentDepot by the User or any of its employees or other agents constitutes your agreement to the terms and conditions of this Agreement. NPR reserves the right to revise this Agreement at any time to make changes that affect all users equally in a manner that does not in any way prejudice any rights, including any sovereign immunity rights, of any user, its directors, officers, employees or agents or under any applicable law.

Any questions about this Agreement or your use of the ContentDepot should be directed to NPR by email at prsshelph@npr.org or by phone at 202.513.2600.

- 1.2 “Content” Defined. “Content” means audio and other multimedia programs produced or distributed for use by authorized public radio or other users, segments of those programs, metadata about such audio and other multimedia programs or segments, related links, related files, related streams, related promotional messages, related graphics, written descriptions of the programs, , underwriting credits, sponsorship announcements, other content and information related to such audio, programs or segments, and your trademarks, service marks, and logos relating to you or your programs.
- 1.3 “ContentDepot” Defined. “ContentDepot” means the ContentDepot Distribution System for audio programming and other Content managed and operated by NPR on behalf of the Public Radio Satellite System (“PRSS”), including but not limited to (i) certain satellite, Internet, or other distribution services; (ii) a system for sending messages from NPR to users and for posting and receiving messages between users of the ContentDepot (the “Messaging System”); (iii) any content exchanges for the placement and retrieval of program ideas and program elements for on-air and other uses (“Content Exchanges”); (iv) the MetaPub metadata delivery service (“MetaPub”); and (v) all restricted areas of the PRSS website. “Restricted areas” of the PRSS website are nonpublic areas accessible only through use of a username, password, or other identifier or security mechanism.
- 1.4 “Program Metadata” Defined. “Program Metadata” means metadata about audio and other multimedia programs or segments distributed through the ContentDepot, including but not limited to text, images, photos, graphics and links containing information such as program title, story title, speakers, subject matter, narrative description, song title and performers names. Program Metadata is “Content” as defined in this Agreement, and all terms of this Agreement applicable to Content apply to Program Metadata.

2. Terms for Using Content

- 2.1 Rights and Authorizations. Although your access to the ContentDepot may give you the technical ability to receive and use Content, it does not give you the legal right to do so. You may receive or use Content only if you have the necessary rights to do so and are authorized to do so. Without limiting the foregoing, if you are authorized to participate in only one particular Content Exchange, you may not receive or use Content from other Content Exchanges or other areas of the ContentDepot. You have full and sole responsibility for determining whether you have the necessary rights and authorizations.
- 2.2 Provider Terms of Use. You may receive, reproduce, broadcast or otherwise use Content from the ContentDepot only as explicitly permitted by the provider of such Content. Each provider of Content, and not NPR’s Distribution division, specifies the terms, conditions and restrictions on the use of its Content (the “Provider’s Terms”). You may not use the Content in any other manner or receive the Content for any other purpose. You are fully and solely responsible for obtaining and complying with each Provider’s Terms, including obtaining any usage rights and making any payments, before receiving or using any Content. You represent and warrant that (i) you will comply with all of each Provider’s Terms and (ii) you have obtained and will obtain all other necessary consents, licenses, clearances, and releases to receive, reproduce, broadcast or otherwise use the Content. All rights not expressly granted to you in this Agreement or by the

providers are reserved by NPR or the providers. NPR is not liable for any errors or omissions in the Provider's Terms, or for any failure to display the Provider's Terms in the ContentDepot.

- 2.3 Responsibility for Content. Each provider is solely responsible for its Content. NPR's Distribution division does not produce, select, edit or otherwise control the Content, and NPR makes no representations as to its accuracy, completeness, timeliness, reliability or non-infringement. Any Content not produced by NPR is in no way sponsored or produced by NPR, and you must not imply that such Content is from, by, or for NPR. You, and not NPR, are fully and solely responsible for examining the Content for any virus, trap door, back door, worm, Trojan horse or other harmful computer code, files, scripts, agents, programs, device or other features that may access, alter, delete, damage or disable any hardware, software, information or other property (collectively, "Harmful Code").

If you become aware that any Content may violate any applicable law, regulation or ordinance, defame any person, violate or infringe upon the copyright, patent, trademark, trade secret, privacy, reputation, creative or other rights of any person or entity, or contain any Harmful Code, or you become aware of any claim, threatened claim or complaint of such violation, infringement or Harmful Code, then you agree to provide a detailed notification to NPR.

- 2.4 MetaPub Service. The MetaPub metadata delivery service consists of one or more application programming interfaces (collectively, the "MetaPub API") for provision and delivery of Program Metadata. By accessing or using the MetaPub API, you agree to be bound by any terms applicable to specific Program Metadata provided to you at the point of access to such Program Metadata within MetaPub, and also agree to the terms and conditions in this Section 2.4.

2.4.1 MetaPub APIs.

- NPR, in its sole discretion, will determine the functionality of MetaPub, the MetaPub API and which third-party applications and other services it operates with, and may change these aspects from time to time.
- NPR reserves the right, at its discretion, to require you to use authentication credentials provided by NPR to access your account. If NPR requires that you use authentication credentials, your use of the authentication credentials will be subject to this Agreement, including without limitation your obligations to protect the security and confidentiality of your account.
- In accessing or otherwise using the MetaPub API, you may not disrupt or try to disrupt the MetaPub API, exceed the limits on the frequency and number of times you can access the MetaPub API that NPR may set from time to time, or infringe any copyright law or other applicable law.
- To extract and use Program Metadata from the MetaPub API and insert it into your broadcast system, you will need to obtain access to a middleware service directly from a vendor on terms to be established by you and the vendor. Middleware is the software that draws data from the MetaPub API and connects it with a station automation system. Access to the MetaPub API by

your middleware service is governed by the MetaPub terms of service provided to vendors in connection with the delivery of authentication credentials to your vendor. NPR does not represent or warrant that any vendor's middleware will interact properly with the MetaPub API. NPR is not responsible or liable for the availability, quality, functionality, or accuracy of any middleware or related services or products, and NPR will not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by use of or reliance on any middleware or related services or products.

- NPR retains all copyright and other intellectual property rights in MetaPub. You may not reverse compile or reverse engineer any MetaPub API, you may not access or use MetaPub in order to develop, or to enable a third party to develop, a similar or competitive product or service, or to promote or market a similar or competitive product or service, and you shall not create derivative works based on the MetaPub API.
- NPR reserves the right to charge fees to access MetaPub or receive technical support for MetaPub. Any such fee will be communicated to you in advance, and will not apply retroactively.

2.4.2 Program Metadata.

- You have the right to display Program Metadata to end users of audio and other multimedia content as synchronized with such content.
- In accessing and using the Program Metadata, you may not sublicense or redistribute the Program Metadata to another party, or use Program Metadata for commercial purposes, including but not limited to selling access to Program Metadata.
- You may not replace, cover up, or otherwise modify any element, including sponsorship acknowledgments, of the Program Metadata unless otherwise permitted by the provider of the Program Metadata. You may not use Program Metadata in any way that changes or distorts the fundamental meaning of the Program Metadata.
- You may only access and display photos and images ("Photos") exactly as they appear in the Program Metadata, as an accompaniment to the particular audio or other multimedia content associated with the Photos. You shall not otherwise use, distribute, republish, or modify the Photos, or permit others to do so. You shall be directly liable to any third party provider of the Photos for any unauthorized use of the Photos. The Photos must contain proper copyright and credit information when displayed.

3. Terms for Providing Content

- 3.1 Rights and Authorizations. Although your access to the ContentDepot may give you the technical ability to provide Content, it does not give you the legal right to do so. You may provide Content only if you have the necessary rights to do so and are authorized to do so. Without limiting the foregoing, if you are authorized to participate in only one particular Content Exchange, you may not provide Content to other Content

Exchanges or other areas of the ContentDepot. You have full and sole responsibility for determining whether you have the necessary rights and authorizations.

3.2 License Grant. If you choose to provide Content to the ContentDepot for access by and distribution to public radio stations, other public telecommunications entities and third parties authorized to use the Content in accordance with your Provider's Terms (the "Distribution Purpose"), then by doing so you grant to NPR the following non-exclusive rights during the Term of the Agreement (or until terminated in accordance with Section 4.10 of the Agreement) solely that NPR may fulfill its obligations for the Distribution Purpose:

- to use, store, archive, distribute, display, reproduce, transmit, publish on the ContentDepot system, host, index, cache, tag, encode and format the Content;
- to allow public radio stations, other public telecommunications entities and authorized third parties to access and use the Content pursuant to the PRSS website Terms of Use (the "Terms of Use"), as such terms of use may be updated by NPR from time to time; and
- to establish hypertext links between the ContentDepot or other areas of the PRSS website and your website.

The license grant to NPR made by User in this Section 3.2 is limited to enable NPR to fulfill its obligations for the Distribution Purpose and is not made for any other reason.

3.3 Provider Terms of Use. You are fully and solely responsible for notifying third parties, including any users of the ContentDepot, of any of the Provider's Terms applicable to Content that you provide. You may submit the Provider's Terms to the ContentDepot for display in the ContentDepot, but NPR is not liable for any errors or omissions in the Provider's Terms, for any failure to display the Provider's Terms in the ContentDepot, or for any failure of a third party to comply with the Provider's Terms.

3.4 Responsibility for Monitoring Use of Content. You are fully and solely responsible for monitoring and controlling the extent to which third parties receive or use the Content you provide to the ContentDepot. NPR may provide information to you about the receipt of such Content by third parties, but NPR is not liable for any errors or omissions in such information, or for monitoring or controlling the receipt or use of Content by third parties.

3.5 Substance of Content. The Content is for use by public radio stations, other "public telecommunications entities" as defined in the Public Broadcasting Act of 1967 and other authorized users. The Content must conform to any and all policies of NPR for the ContentDepot, which NPR may establish from time to time. If any of the Content contains potentially offensive language, graphics or other material, you must promptly notify NPR's Distribution division and users of the Content in advance of providing it. Content not produced by NPR is in no way sponsored or produced by NPR, and you must not imply that such Content is from, by, or for NPR.

If you become aware that any Content may violate any applicable law, regulation or ordinance, defame any person, violate or infringe upon the copyright, patent, trademark, trade secret, privacy, reputation, creative

or other rights of any person or entity, or contain any Harmful Code, or you become aware of any claim, threatened claim or complaint of such violation, infringement or Harmful Code, then you agree to provide a detailed notification to NPR and promptly remove such Content from the ContentDepot. NPR also has the right to remove such Content. In the event you become aware of such violation, infringement, Harmful Code, or claim, threatened claim or complaint of such violation, infringement or Harmful Code with respect to Content that remains in the ContentDepot after the termination of the Agreement, then you agree to provide a detailed notification and request for removal to NPR, and within 15 business days NPR will remove from the ContentDepot the Content identified by you.

- 3.6 Representations and Warranties. You are fully and solely responsible for the content of the Content that you provide to the ContentDepot. You represent and warrant that (i) you have obtained and will obtain all clearances, releases and licenses for all materials or elements embodied in all Content that are necessary for the Content to be used by NPR and its licensees for the purposes set forth in this Agreement; (ii) there are no encumbrances or restrictions on the Content or its use by NPR and its licensees for the purposes set forth in this Agreement; (iii) the Content, and its use authorized herein, will not violate any applicable law, regulation or ordinance, defame any person, violate or infringe upon the copyright, patent, trademark, trade secret, privacy, reputation, creative or other rights of any person or entity; (iv) the Content complies with all applicable laws, regulations and ordinances in connection with the Content, including those applicable to a broadcast station licensed as such by the Federal Communications Commission; (v) no portion of the Content constitutes an “advertisement” or “advertising” as those terms are defined under the Communications Act of 1934 or under the Internal Revenue Code of 1986; and (vi) the Content does not contain any Harmful Code, and you will not introduce any Harmful Code to the ContentDepot by or through any data transmission.
- 3.7 Content Exchange. Unless explicitly permitted by NPR in writing, you may not provide completed programs to a Content Exchange. Content that you provide to a Content Exchange may consist only of program elements, news actualities, localization modules and supporting text.
- 3.8 Payments. You will promptly pay all expenses and charges, including interest charges, late payment penalties and attorney fees (as permitted by the law of your jurisdiction) specified on invoices sent to you. The terms of those invoices are incorporated by reference into this Agreement. You shall bear the costs for collection of any expenses or charges that are not timely paid.
- 3.9 Insurance. Each user that is a producer of Content provided through the ContentDepot must be covered by a multimedia liability insurance policy covering all uses of the Content anticipated by this Agreement. You agree to maintain this insurance policy, which will have a limitation of liability of no less than \$1 million per occurrence, for as long as you provide Content under this Agreement. You agree to name NPR as an additional insured party on this policy. If requested by NPR, you will provide to NPR a certificate of insurance demonstrating the existence and validity of this policy.
- 3.10 MetaPub Service. For all Program Metadata that you provide to MetaPub through the MetaPub API, you grant NPR the right to allow public radio stations, other public telecommunications entities, and authorized third parties to access and use such Program Metadata in accordance with the terms of this Agreement.

Notwithstanding anything to the contrary in this Agreement, a station that ingests its own Program Metadata into the MetaPub API and then accesses this Program Metadata through the MetaPub API can use this Program Metadata as it wishes, in its discretion.

4. General Terms

- 4.1 Term; Renewals. The term of this Agreement (i) begins on the Effective Date and will continue through December 31, 2018 unless earlier terminated in accordance with Section 4.10 of this Agreement and (ii) will be renewed automatically for one-year periods through December 31 of each succeeding year.
- 4.2 Compliance with Policies and Procedures. You must comply with all NPR policies and procedures for access to and use of the ContentDepot and for the format and provision of the Content. NPR may, in its sole discretion, immediately suspend or terminate your access to the ContentDepot or your ability to receive, reproduce, broadcast or otherwise use or provide Content for failure to comply with its policies and procedures or with this Agreement.
- 4.3 Website Terms of Use and Privacy Policy. NPR shall maintain a privacy policy for the PRSS website (the "Privacy Policy") that is complete, accurate, up to date, and fulfills any applicable legal and regulatory requirements. NPR shall use any personal information collected from your access or use of the ContentDepot or the website only as necessary to perform NPR's obligations under this Agreement. Any personal information collected from you through the ContentDepot or other areas of the PRSS website is subject to the Privacy Policy. Your use of features of the ContentDepot that are implemented through the PRSS website is subject to the Terms of Use, and if there is any conflict between this Agreement and the Terms of Use, this Agreement will take precedence over the Terms of Use. Your use of the Messaging System must comply with the "Rules for Using the Site" section of the Terms of Use.
- 4.4 Accounts; Security. You are fully and solely responsible for all activities that occur using your account and any usernames or passwords associated with your account. You must maintain, and inform each person with access to a username or password that such person must maintain, the confidentiality and security of all usernames and passwords, and you agree to notify NPR immediately of any unauthorized use of your account, any username or password. You agree that (i) you will not violate, or attempt to violate, the security of the ContentDepot, whether by breaking or attempting to break any of NPR's security systems for the ContentDepot, using or attempting to use any username or password you are not authorized to use, obtaining or attempting to obtain access to any Content or data other than Content or data that you have been authorized to access under this Agreement, or any other attempt to breach the security of the ContentDepot, and (ii) you will not attempt to interfere with the operation of the ContentDepot or with the provision of service through the ContentDepot to any other user.
- 4.5 Continued Availability of Content. The availability of Content in the ContentDepot is at NPR's sole discretion and is subject to any NPR policies, such as policies relating to file size, format and duration of storage, that are or may be in effect. NPR has the right, at any time without notice in its sole discretion, to change, refuse, suspend or terminate service, to add or remove Content, or to change or discontinue any aspect or feature of the ContentDepot or the PRSS website.

- 4.6 No Warranties. NPR PROVIDES THE CONTENT, THE CONTENTDEPOT, AND THE SERVICES PROVIDED UNDER THIS AGREEMENT ON AN “AS IS,” “AS AVAILABLE” BASIS WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF PERFORMANCE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NPR MAKES NO WARRANTY, EXPRESS OR IMPLIED, THAT THE CONTENT, THE CONTENTDEPOT, OR THE SERVICES PROVIDED UNDER THIS AGREEMENT WILL BE AVAILABLE, UNINTERRUPTED, TIMELY OR ERROR-FREE, AND, WITHOUT LIMITATION, NPR EXPLICITLY DISCLAIMS ANY AND ALL WARRANTIES REGARDING THE SECURITY, RELIABILITY, AND TIMELINESS OF THE CONTENTDEPOT AND THE SERVICES PROVIDED UNDER THIS AGREEMENT.
- 4.7 Limitations on Liability. THE LIABILITY OF NPR ARISING OUT OF THE FURNISHING OF ANY SERVICES UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO MISTAKES, OMISSIONS, INTERRUPTIONS, DELAYS, ERRORS OR OTHER DEFECTS, OR ARISING OUT OF FAILURE TO FURNISH THE SERVICES, WHETHER CAUSED BY ACTIONS OF COMMISSION OR OMISSION, SHALL BE LIMITED TO A SERVICE MAKEGOOD, IF APPLICABLE. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL NPR, ITS DIRECTORS, OFFICERS, EMPLOYEES OR MEMBERS BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, INCOME, OR BUSINESS OPPORTUNITIES, REGARDLESS OF THE NATURE OF THE CLAIM OR THE FORM OF ACTION, ARISING OUT OF THE USE OF OR INABILITY TO USE THE CONTENT, THE CONTENTDEPOT, OR THE SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER OR NOT NPR SHALL HAVE HAD ANY KNOWLEDGE, ACTUAL OR CONSTRUCTIVE, THAT SUCH DAMAGES MIGHT BE INCURRED.
- 4.8 Links to Third-Party Websites. The ContentDepot or other areas of the PRSS website may contain links to websites maintained by providers of Content other than NPR or by other third parties over which NPR has no control. NPR does not endorse the content, operators, products or services of such websites, and NPR 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 the use of or reliance on any such content, products or services available on or through such websites.
- 4.9 Indemnification. You agree to defend and indemnify and hold harmless NPR, its officers, directors, agents, employees, representatives, successors and assigns, any point of presence used, any providers of Content, all public radio stations and other public telecommunications entities, and all other authorized users of the ContentDepot against any claims, suits, proceedings, damages or expenses (including reasonable attorneys’ fees or court costs) arising out of (i) any breach of your representations, warranties or obligations under this Agreement, including the requirement, if you are a producer, to acquire an appropriate multimedia liability insurance policy, (ii) any violation of any applicable law, regulation or ordinance, or (iii) in connection with your use or provision of Content, your use of the ContentDepot or the PRSS website or any other activities under this Agreement, including without limitation claims that Content you have provided to the ContentDepot constitutes libel, defamation or disparagement of any third party, all to the extent not expressly prohibited by the law of your jurisdiction in effect at the time such claim, suit or proceeding arises. NPR agrees to notify you, in writing, within 30 days of any notice of claim, suit or proceeding, and agrees to give you, at your option, full and complete authority, information and assistance for the defense of the claim, suit or proceeding. The provisions of this Section 4.9 will survive the expiration or termination of this Agreement for any reason.

- 4.10 Termination. Either you or NPR may terminate this Agreement for any reason at any time. If either you or NPR terminates this Agreement, your right to access or use the ContentDepot will immediately terminate; provided, however, that Section 2.2, Section 2.3, Section 3.2, Section 3.3, Section 3.4, Section 3.6, Section 4.6, Section 4.7, Section 4.8, Section 4.9, this Section 4.10, Section 4.15, Section 4.16 and Section 4.17, as well as any other provisions of this Agreement that by their terms should survive expiration or earlier termination of this Agreement, will survive expiration, termination, cancellation or suspension of this Agreement and remain in full force and effect.
- 4.11 Publicity; Feedback. Any public announcements, press releases or other publicity, promotional or informational materials issued by you mentioning the ContentDepot, the PRSS website or the services provided under this Agreement must be coordinated with and approved by NPR in advance. You acknowledge that NPR may contact you for feedback regarding the ContentDepot, the PRSS website, and the services provided under this Agreement.
- 4.12 Operation within United States. The ContentDepot and the PRSS website are controlled and operated within the United States. NPR makes no representation that any Content or services available through the ContentDepot are appropriate or available for use outside the United States. If you gain access to the ContentDepot from a location outside the United States, you have full and sole responsibility for compliance with applicable laws.
- 4.13 DMCA; Copyright Agent. NPR is under no obligation to distribute any of the Content that you provide to the ContentDepot. NPR has the right to remove from the Content Depot any Content for any reason, in its discretion, including but not limited to receipt of a notice under the Digital Millennium Copyright Act codified at 17 U.S.C. § 512 (the "DMCA"). In the event that NPR removes any Content from the ContentDepot, it shall remove an entire piece of Content (rather than a portion or a piece of Content) and all related materials, unless otherwise instructed by you. NPR will promptly provide a detailed notification to you if it removes from the ContentDepot any of the Content you provided. Nothing in this Section 4.13 shall prevent you from sending a DMCA counter-notification to NPR or otherwise exercising the rights of a copyright owner under the DMCA; provided, however, that receipt of a counter-notification will not obligate NPR to use or distribute any such Content or prevent NPR from removing such Content from the ContentDepot.

If you believe that your work has been copied in the ContentDepot in a way that constitutes copyright infringement, please follow the procedure described in the "Copyright Agent" section of the Terms of Use for the PRSS website.

- 4.14 Force Majeure. In the event that a failure to comply with any obligation created by this Agreement is caused by a force majeure condition (i.e., a condition outside such party's reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, communications or Internet failures, or any law, order or requirement of any governmental agency or authority), that obligation shall be suspended during the continuance of the force majeure condition.
- 4.15 Governing Law. This Agreement and its interpretation, construction and effect shall be governed by the laws of the District of Columbia without regard to its choice of law and forum or venue rules; provided,

however, that, if such choice of law is prohibited by the law of your jurisdiction, the parties intend for this Agreement to remain silent with respect to the choice of applicable law. Any action arising from this Agreement shall be brought in the in the local or federal courts located in the District of Columbia; provided, however, that if such choice of forum is prohibited by the law of your jurisdiction then any action arising from this Agreement will be brought in the jurisdiction of the defendant in such action.

- 4.16 Validity of Records. You hereby agree that this Agreement and your acceptance of this Agreement will be deemed for all purposes to be (i) business records originated and maintained in documentary form, (ii) a "writing" or "in writing," (iii) "signed," and (iv) an "original" when printed from electronic files or records established and maintained in the normal course of business. You further agree not to contest the validity or enforceability of this Agreement under the provisions of any applicable law relating to whether certain agreements are to be in writing, signed or digitally authenticated by the parties to be bound thereby, and agree that this Agreement will be admissible if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceeding to the same extent and under the same conditions as other business records originated and maintained in documentary form.
- 4.17 Entire Agreement; Waiver; Severability; Section Headings. This Agreement, together with the Terms of Use and the Privacy Policy, represent the entire understanding of the parties regarding its subject matter and supersedes any prior agreements or understandings regarding the ContentDepot or this Agreement, written or oral, and the terms of any purchase order related to the ContentDepot that are not inconsistent with the terms of this Agreement. This Agreement may not be waived or modified by the parties except in writing signed by authorized representatives of both parties, and the conduct or actions of any party will not be deemed a modification or waiver. A modification or waiver of a part of this Agreement will not constitute a modification or waiver of any other portion of this Agreement. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect. The headings of the sections of this Agreement are included solely for convenience and do not constitute a part of this Agreement.
- 4.18 Counterparts. This Agreement may be signed in counterparts, and whether delivered by hand, mail, email or fax, each will be deemed an original and all of which taken together will constitute one and the same instrument.