

## TERMS OF USE

Last Modified: February 2, 2021

### **Acceptance of the Terms of Use**

These terms of use are entered into by and between you and Future Problem Solving Program International, Inc., an Iowa nonprofit corporation (“FPSPI,” “we” or “us”). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, these “**Terms of Use**”), govern your access to and use of our websites located at <https://www.fpspi.org>, <https://www.creativelearning.com>, <https://www.fpspimart.org>, <https://www.fpsonline.org>, and <https://www.icfpspi.org>, including the FPS Online System, the FPS Virtual IC 2020 Application and any subsequent year’s version of that application (all such versions, the “**Virtual IC Application**”), and any other content, functionality and services offered on or through such websites (collectively, the “**Site**”), whether as a guest or a registered user.

Please read the Terms of Use carefully before you start to use the Site. **By using the Site or by clicking to accept or agree to the Terms of Use when this option is made available to you, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <https://www.fpspi.org/privacy-policy/>, incorporated herein by reference.** Parents or legal guardians of children under the age of 18 should review these Terms of Use. Such parents or legal guardians are deemed to consent to the Terms of Use if their children access the Site. If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Site.

These Terms of Use are for the benefit of, and are enforceable by, the Supplier (defined below) against you.

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

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Site thereafter. However, any changes to the dispute resolution provisions set forth in Governing Law and Jurisdiction will not apply to any disputes for which the parties have actual notice prior to the date the change is posted on the Site.

Your continued use of the Site following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page from time to time so you are aware of any changes, as they are binding on you.

### **Accessing the Site and Account Security**

We reserve the right to withdraw or amend the Site, and any service or material we provide on the Site, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Site is unavailable at any time or for any period. From time to

time, we may restrict access to some parts of the Site, or the entire Site, to users, including registered users.

You are responsible for:

- Making all arrangements necessary for you to have access to the Site.
- Ensuring that all persons who access the Site through your internet connection are aware of these Terms of Use and comply with them.

To access the Site or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Site that all the information you provide on the Site is correct, current and complete. You agree that all information you provide to register with this Site or otherwise, including but not limited to through the use of any interactive features on the Site, is governed by our *Privacy Policy* <https://www.fpspi.org/privacy-policy/> and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

If you choose, or are provided with, a user name, password or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Site or portions of it using your user name, password or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

### **Intellectual Property Rights**

Except as set forth below with respect to the Virtual IC Application, the Site and its entire contents, features and functionality (including, but not limited to, all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof) are owned by FPSPI, its subsidiaries, affiliates and/or their respective licensors and providers, as applicable, and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights and laws.

The Virtual IC Application and its entire contents, features and functionality (including, but not limited to, all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), to the extent not owned by FPSPI as provided herein, are owned by the supplier of the Virtual IC Application (the “**Supplier**”), the Supplier’s licensors or other providers of such material and are protected

by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Site for your lawful, personal, non-commercial use only. You must not copy, reproduce, reverse-engineer, decompile, disassemble, resell, distribute or modify any of the material on the Site, except as expressly permitted by law.

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Site in breach of the Terms of Use, your right to use the Site will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Site or any content on the Site is transferred to you, and all rights not expressly granted are reserved by FPSPI. Any use of the Site not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark and other laws.

You will own all intellectual property rights in your User Contributions (defined below).

### **Trademarks**

The FPSPI name, FPSPI logo, and all related names, logos, product and service names, designs and slogans are trademarks of FPSPI or its affiliates or licensors. You must not use such marks without the prior written permission of FPSPI. All other names, logos, product and service names, designs and slogans on this Site are the trademarks of their respective owners.

### **Prohibited Uses**

You may use the Site only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Site:

- In any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To send, knowingly receive, upload, download, use or re-use any material which does not comply with the Content Standards as set out in these Terms of Use.
- To transmit, or procure the sending of, any advertising or promotional material without our prior written consent, including any “junk mail,” “chain letter” or “spam” or any other similar solicitation.

- To impersonate or attempt to impersonate FPSPI, an FPSPI employee, another user or any other person or entity (including, without limitation, by using e-mail addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Site, or which, as determined by us, may harm FPSPI or users of the Site or expose them to liability.

Additionally, you agree not to:

- Use the Site in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Site, including their ability to engage in real time activities through the Site.
- Use any robot, spider or other automatic device, process or means to access the Site for any purpose, including monitoring or copying any of the material on the Site.
- Use any manual process to monitor or copy any of the material on the Site or for any other unauthorized purpose without our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Site.
- Introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Site, the server on which the Site is stored, or any server, computer or database connected to the Site.
- Attack the Site via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Site.

### **User Contributions**

The Site may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards, and other interactive features (collectively, “**Interactive Services**”) that allow users to post, submit, publish, display or transmit to other users or other persons (hereinafter, “**post**”) content or materials (collectively, “**User Contributions**”) on or through the Site.

All User Contributions must comply with the Content Standards set out in these Terms of Use.

Any User Contribution you post to the site will be considered non-confidential and non-proprietary. By providing any User Contribution on the Site, you grant us and our affiliates, the Supplier and other service providers, and each of their and our respective licensees, successors and assigns the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material, except as otherwise agreed between you and FPSPI, including, with respect to the Virtual IC Application, in the Publication Release/Statement of Authenticity and Competitor Rules & Regulations signed by participants at FPSPI's International Conferences.

You represent and warrant that:

- You own or control all rights in and to the User Contributions and have the right to grant the license granted above to us and our affiliates and service providers, and each of their and our respective licensees, successors and assigns.
- All of your User Contributions do and will comply with these Terms of Use.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not FPSPI, have full responsibility for such content, including its legality, reliability, accuracy and appropriateness.

We are not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by you or any other user of the Site.

### **Monitoring and Enforcement; Termination**

We have the right to:

- Remove or refuse to post any User Contributions for any or no reason in our sole discretion.
- Take any action with respect to any User Contribution that we deem necessary or appropriate in our sole discretion, including if we believe that such User Contribution violates the Terms of Use, including the Content Standards, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Site or the public or could create liability for FPSPI.
- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Site.
- Terminate or suspend your access to all or part of the Site for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Site. YOU WAIVE AND HOLD HARMLESS FPSPI AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY FPSPI/ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER FPSPI/SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, we do not undertake to review all material before it is posted on the Site, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

### **Content Standards**

These content standards apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions must not:

- Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable.
- Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.
- Infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person.
- Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use and our Privacy Policy <https://www.fpspi.org/privacy-policy/>
- Be likely to deceive any person.
- Promote any illegal activity, or advocate, promote or assist any unlawful act.

- Impersonate any person, or misrepresent your identity or affiliation with any person or organization.
- Involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising.
- Give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

### **Reliance on Information Posted**

The information presented on or through the Site is made available solely for general information purposes. We do not warrant the accuracy, completeness or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Site, or by anyone who may be informed of any of its contents.

### **Changes to the Site**

We may update the content on this Site from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Site may be out of date at any given time, and we are under no obligation to update such material.

### **Information About You and Your Visits to the Site**

All information we collect on this Site is subject to our Privacy Policy <https://www.fpspi.org/privacy-policy/>. By using the Site, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

### **Linking to the Site and Social Media Features**

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part without our express written consent.

This Site may provide certain social media features that enable you to:

- Link from your own or certain third-party websites to certain content on this Site.
- Send e-mails or other communications with certain content, or links to certain content, on this Site.
- Cause limited portions of content on this Site to be displayed or appear to be displayed on your own or certain third-party websites.

You may use these features solely as they are provided by us and solely with respect to the content they are displayed with and otherwise in accordance with any additional terms and conditions we provide with respect to such features. Subject to the foregoing, you must not:

- Establish a link from any website that is not owned by you.
- Cause the Site or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
- Link to any part of the Site other than the homepage.
- Otherwise take any action with respect to the materials on this Site that is inconsistent with any other provision of these Terms of Use.

The website from which you are linking, or on which you make certain content accessible, must comply in all respects with the Content Standards set out in these Terms of Use.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice.

We may disable all or any social media features and any links at any time without notice in our discretion.

### **Links from the Site**

If the Site contains links to other sites and resources provided by third parties, these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third party websites linked to this Site, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

### **Terms and Conditions for the Online Sale of Goods and Services**

These terms and conditions apply to the purchase and sale of products and services through <https://www.fpspimart.org>. All references to the “Site” in this section (through Paragraph 7 on Page 11) shall be to <https://www.fpspimart.org>.

**BY PLACING AN ORDER FOR PRODUCTS OR SERVICES FROM THE SITE, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THIS AGREEMENT, AND YOU ACCEPT AND ARE BOUND BY THESE TERMS AND CONDITIONS. YOU AFFIRM THAT IF YOU PLACE AN ORDER ON BEHALF OF AN ORGANIZATION OR COMPANY, YOU HAVE THE LEGAL**

**AUTHORITY TO BIND ANY SUCH ORGANIZATION OR COMPANY TO THESE TERMS AND CONDITIONS.**

**YOU MAY NOT ORDER OR OBTAIN PRODUCTS OR SERVICES FROM THE SITE IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT THE OLDER OF (i) AT LEAST 18 YEARS OF AGE OR (ii) LEGAL AGE TO FORM A BINDING CONTRACT WITH FPSPI, OR (C) ARE PROHIBITED FROM ACCESSING OR USING THIS WEBSITE OR ANY OF THE SITE'S CONTENTS, GOODS OR SERVICES BY APPLICABLE LAW.**

1. Order Acceptance and Cancellation. You agree that your order is an offer to buy, under these terms, all products and services listed in your order. All orders must be accepted by us or we will not be obligated to sell the products or services to you. We may choose not to accept orders at our sole discretion, even after we send you a confirmation email with your order number and details of the items you have ordered.

2. Prices and Payment Terms.

(a) All prices, discounts, and promotions posted on the Site are subject to change without notice. The price charged for a product or service will be the price in effect at the time the order is placed and will be set out in your order confirmation email. Price increases will only apply to orders placed after such changes. Posted prices do not include taxes or charges for shipping and handling. All such taxes and charges will be added to your merchandise total, and will be itemized in your shopping cart and in your order confirmation email. We strive to display accurate price information, however we may, on occasion, make inadvertent typographical errors, inaccuracies or omissions related to pricing and availability. We reserve the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.

(b) We may offer from time to time promotions on the Site that may affect pricing and that are governed by terms and conditions separate from these terms. If there is a conflict between the terms for a promotion and these terms, the promotion terms will govern.

(c) Terms of payment are within our sole discretion and, unless otherwise agreed by us in writing, payment must be received by us before our acceptance of an order. We accept Visa, MasterCard, Discover, American Express, Purchase Orders, and Checks/Money Orders for all purchases. You represent and warrant that (i) the credit card information you supply to us is true, correct and complete, (ii) you are duly authorized to use such credit card for the purchase, (iii) charges incurred by you will be honored by your credit card company, and (iv) you will pay charges incurred by you at the posted prices, including shipping and handling charges and all applicable taxes, if any, regardless of the amount quoted on the Site at the time of your order.

3. Shipments; Delivery; Title and Risk of Loss.

(a) We will arrange for shipment of the products to you. Please check the individual product page for specific delivery options. You will pay all shipping and handling charges specified during the ordering process. Shipping and handling charges are reimbursement for the costs we incur in the processing, handling, packing, shipping, and delivery of your order.

(b) Title and risk of loss pass to you upon our transfer of the products to the carrier. Shipping and delivery dates are estimates only and cannot be guaranteed. We are not liable for any delays in shipments.

4. Returns and Refunds.<sup>1</sup> Except for any products designated on the Site as final sale or non-returnable, we will accept a return of the products for a refund of your purchase price, less the original shipping and handling costs, provided such return is made within [30/NUMBER] days of delivery with valid proof of purchase and provided such products are returned in their original condition. To return products, you must email us at mail@fpspi.org to obtain a Return Merchandise Authorization (“**RMA**”) number before shipping your product. No returns of any type will be accepted without an RMA number.

You are responsible for all shipping and handling charges on returned items unless otherwise specified. You bear the risk of loss during shipment.

Refunds are processed within approximately [three/NUMBER] business days of our receipt of your merchandise. Your refund will be credited back to the same payment method used to make the original purchase on the Site. WE OFFER NO REFUNDS ON ANY PRODUCTS DESIGNATED ON THIS SITE AS NON-RETURNABLE.

5. Warranty and Disclaimers. **ALL PRODUCTS AND SERVICES OFFERED ON THE SITE ARE PROVIDED “AS IS” WITHOUT ANY WARRANTY WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.**

**SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO YOU.**

**YOU AFFIRM THAT WE SHALL NOT BE LIABLE, UNDER ANY CIRCUMSTANCES, FOR ANY BREACH OF WARRANTY CLAIMS OR FOR**

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<sup>1</sup> Note to Client: Conform this section to your refund policy.

**ANY DAMAGES ARISING OUT OF THE APPLICABLE MANUFACTURER'S FAILURE TO HONOR ITS WARRANTY OBLIGATIONS TO YOU.**

6. Limitation of Liability. **IN NO EVENT SHALL FPSPI BE LIABLE TO YOU OR ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF, OR RELATING TO, AND/OR IN CONNECTION WITH ANY BREACH OF THESE TERMS, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED.**

**OUR SOLE AND ENTIRE MAXIMUM LIABILITY, FOR ANY REASON, AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE WHATSOEVER, SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY YOU FOR THE PRODUCTS AND SERVICES YOU HAVE ORDERED THROUGH THE SITE.**

The limitation of liability set forth above shall only apply to the extent permitted by law.

7. Goods Not for Resale or Export. You represent and warrant that you are buying products or services from the Site for your own personal or household use only, and not for resale or export. The previous sentence shall not apply to sales to our Affiliate Programs.

### **Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Site will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. **WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.**

**YOUR USE OF THE SITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE IS AT YOUR OWN RISK. THE SITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY**

WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER FPSPI NOR ANY PERSON ASSOCIATED WITH FPSPI MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE SITE. WITHOUT LIMITING THE FOREGOING, NEITHER FPSPI NOR ANYONE ASSOCIATED WITH FPSPI REPRESENTS OR WARRANTS THAT THE SITE, ITS CONTENT OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

FPSPI HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

### **Limitation on Liability**

EXCEPT AS SET FORTH ABOVE WITH RESPECT TO THE PURCHASE OF PRODUCTS OR SERVICES THROUGH [HTTPS://WWW.FPSPIMART.ORG](https://www.fpsspimart.org), IN NO EVENT WILL FPSPI, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE SITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE SITE OR SUCH OTHER WEBSITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

### **Indemnification**

You agree to defend, indemnify and hold harmless FPSPI, its affiliates, licensors and service providers, and its and their respective officers, directors, employees,

contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Site, including, but not limited to, your User Contributions, any use of the Site's content, services and products other than as expressly authorized in these Terms of Use or your use of any information obtained from the Site.

### **Governing Law and Jurisdiction**

All matters relating to the Site and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule (whether of the State of Florida or any other jurisdiction).

Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or the Site shall be instituted exclusively in the United States District Court for the Middle District of Florida or a court of the State of Florida sitting in (or with jurisdiction over disputes arising in) Brevard County, although we retain the right to bring any suit, action or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

### **Arbitration**

At FPSPI's sole discretion, it may require you to submit any disputes arising from the use of these Terms of Use or the Site, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the International Chamber of Commerce applying Florida law. If FPSPI exercises its discretion to require your dispute to be arbitrated, this means you will not be entitled to a trial by jury to adjudicate the dispute.

### **Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

### **Waiver and Severability**

No waiver by FPSPI of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of FPSPI to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

### **Entire Agreement**

The Terms of Use and our Privacy Policy constitute the sole and entire agreement between you and FPSPI with respect to the Site and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Site.

### **Your Comments and Concerns**

All other feedback, comments, requests for technical support and other communications relating to the Site should be directed to mail@fpspi.org.