



## Pricing and Contract: FY2015 - 2016



Prepared For:  
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Gallion City School District

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## ❖ Appendix A: Pricing

Galion City School District, OH

Contract Term: 3 Yrs

Service Starts: July 1, 2015

June 3, 2015

Service Ends: June 30, 2018

Pricing Summary		
Products - Annual Charges	Units	Price
SharpSchool Suite <sup>§</sup>	1	\$ 1,275.00
Mobile App		
Mobile App - Silver (Included with SharpSchool Suite)		
Mobile App - Platinum	1	\$ 1,000.00
Safemail		
Annual Recurring Total		\$ 2,275.00

Professional Services - One-Time Charges	Units/Days	Price
Design		
Standard Design (Included with SharpSchool Suite)		
Responsive Design	1	\$ 500.00
Training		
Training - Administrator Onsite*	0	\$ -
Training - Administrator Online	0	\$ -
One-Time Total		\$ 500.00

Totals	Units/Days	Price
Y1 Total		\$ 2,775.00
Y2 Onwards		\$ 2,275.00

\*Travel expenses for onsite are extra

§ Included in the SharpSchool Suite.

SharpSchool Suite also includes the following products: CMS (Content Management System), Mobile App - Silver, Social Learning Management System - Lite, Personal Folders and SaaS (Software-as-a-service) Delivery. SharpSchool Suite complements these products with the following services: All-inclusive Support, SIF/SIS Integration, Full Content Migration, Full Access to Online Training Video Library and a Dedicated Migration Coordinator.

*The Parties have read this Order Form, understand it, and by signing below agree that it will become an integral part of the Master Service Agreement and to be bound thereby. Each Party represents that the individual signing on its behalf has full authority to do so*

IN WITNESS WHEREOF, SharpSchool has executed this Agreement as of the date indicated below.

Accepted on behalf of SHARPSCHOOL:

By:

John Carbrey

Title: Chief Executive Officer

Date: 03 June, 2015

IN WITNESS WHEREOF, CUSTOMER has executed this Agreement as of the date indicated below.

Accepted on behalf of CUSTOMER:

By \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **MASTER SERVICE AGREEMENT**

**THIS AGREEMENT** (this "**Agreement**") is between **Intrafinity Inc. o/a SharpSchool**, with a principal place of business at 175 Bloor St. E. South Tower, Suite 900, Toronto, Ontario, M4W 3R9 ("**SHARPSCHOOL**"), and **Galion City School District**, with a principal place of business at 470 Portland Way North, Galion, OH, 44833-0000 (the "**Customer**"), and is entered into as of the Agreement Effective Date set forth below.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **1. Definitions**

**"Agreement Effective Date"** has the meaning set forth in the Order Form.

**"Fees"** means the fees described in the Order Form.

**"Customer Data"** means all data and information (including electronic data or information) submitted by Customer and its Users to SHARPSCHOOL and/or the Service.

**"Malicious Code"** means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

**"Order Form"** means the order form to which this Agreement relates, which Order Form is attached to, and incorporated by reference in the terms and conditions of, this Agreement as Appendix A.

**"Platform"** means the uniquely configured portal instance of SHARPSCHOOL's standard software as a service offering that is to be used by Customer and hosted by SHARPSCHOOL in Canada. The term "Platform" shall include any modifications or enhancements thereto, or new versions thereof and is further described in the Order Form.

**"Service"** means SHARPSCHOOL's technology for web site(s), content control, hosting and/or email.

**"Term"** has the meaning ascribed to that term in Section 11.1.

**"User"** means employees of Customer as well as any third parties Customer permits access and use of its program on the Platform.

### **2. Grant of License**

**2.1 Provision of Service.** Conditioned on the provisions in this Section 2 and the other terms and conditions of this Agreement and payment of the applicable Fees, SHARPSCHOOL shall permit Customer and its Users to access and use the Platform and the Services, but this Agreement is not otherwise an agreement for the sale or license of any software. SHARPSCHOOL shall make the Service available to Users in accordance with, and subject to, the Agreement.

**2.2 User Accounts.** User accounts are for use by designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Service. Other than to the extent specifically modified by this Agreement, the Customer and the Users shall comply with the Agreement in connection with their use of the Platform and Service.

### **3. SHARPSCHOOL Responsibilities**

SHARPSCHOOL shall: (i) in addition to its confidentiality obligations hereunder, not use or modify the Customer Data (except for the purposes of performing its obligations or exercising its rights under this Agreement) or disclose the Customer Data to anyone other than Customer and the applicable Users(s); (ii) maintain the security and integrity of the Service and the Customer Data in accordance with applicable law, industry standards and documentation provided by SHARPSCHOOL; and (iii) use commercially reasonable efforts to make the Service available 99.9% of the time, except for: (a) planned downtime (of which SHARPSCHOOL shall give prior notice via the Service); or (b) any unavailability caused by circumstances beyond SHARPSCHOOL's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems (other than those involving SHARPSCHOOL employees), computer, telecommunications, Internet service provider or delays involving hardware, software or power systems not within SHARPSCHOOL's (or its agents') possession or reasonable control, and denial of service attacks; and (iv) provide training and technical support services and materials to Customer and its Users during the Term in accordance with the details contained in SHARPSCHOOL's proposal documents and on SHARPSCHOOL'S CustomerNet website, and Exhibit A (Order Form); and (v) upon written request, remove, delete and/or return to Customer all Customer Data, or portions thereof.

### **4. Customer Responsibilities**

**4.1 Customer Data.** As between SHARPSCHOOL and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. SHARPSCHOOL shall not access Customer's User accounts, including Customer Data, except to: (x) respond to service or technical problems or at Customer's request, (y) as necessary for the operation of the Service or billing, or (z) collect de-identified, anonymized data on the customer's usage of the system for SHARPSCHOOL's benchmarking and best practices. Customer hereby grants SHARPSCHOOL a non-exclusive license for the Term (and for ninety (90) days thereafter) to use the Customer Data as reasonably required to provide the Service.

**4.2 Removal of Customer Data.** Upon the expiration or termination of this Agreement for any reason, SHARPSCHOOL shall delete all Customer Data from the Service promptly after a 10 (ten) day post-termination period has expired.

**4.3 Compliance with Agreement.** Customer shall comply with, is wholly responsible for, and shall ensure compliance by Users with the provisions of this Agreement. Customer shall: (i) have sole responsibility for the legality and appropriateness of all Customer Data submitted by Users; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and notify SHARPSCHOOL promptly of any such unauthorized access or use; (iii) comply with all applicable local, provincial, state, and federal laws in using the Service.

**4.4 Use Guidelines.** Customer shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party other than Users; (ii) use the Service to send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) use the Service to send to any third party other than Users or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to

children or violates third-party privacy or publicity rights; (iv) use the Service to send or store Malicious Code; (v) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Service or its related systems or networks. If Customer fails to cure a violation of this Section within a reasonable time (not to exceed five (5) days) after receiving written notice, then SHARPSCHOOL may remove such content from the Service.

**4.5 Customer Indemnification and Customer Data Representation.** Customer shall indemnify SHARPSCHOOL against any damages (including reasonable legal fees) incurred in connection with any allegation by a third party that Customer Data infringes such third party's intellectual property rights, or any use of the Service by the Customer or any User in a manner prohibited by the Agreement (the "Customer Claims"); provided, that SHARPSCHOOL (a) promptly (and no later than 30 days) gives written notice of each Customer Claim to Customer; (b) gives Customer sole control of the defense and settlement of each Customer Claim (provided that Customer may not settle or defend any Customer Claim unless it unconditionally releases SHARPSCHOOL of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance in respect to each Customer Claim.

**4.6 Customer Responsibilities.** Customer agrees that it shall:

- a) provide SHARPSCHOOL with all necessary co-operation in relation to this Agreement;
- b) provide SHARPSCHOOL with all necessary access to such information as may be required by SHARPSCHOOL in order to render the Services, including but not limited to Customer Data;
- c) comply with all applicable Laws and regulations with respect to its activities under this Agreement;
- d) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the Parties, SHARPSCHOOL may adjust any agreed timetable or delivery schedule as reasonably necessary;
- e) ensure that Users use the Services in accordance with the terms and conditions of this Agreement and shall be responsible for any Users breach of this Agreement;
- f) ensure that its network and systems comply with the minimum relevant standards provided by SHARPSCHOOL from time to time;
- g) ensure that all login details and passwords are securely maintained;
- h) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the SHARPSCHOOL data centers, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet; and
- i) be responsible to relay terms affecting Users to said Users and to provide accurate Customer Data to SHARPSCHOOL.

## 5. Fees & Payment

**5.1 Fees.** Customer shall pay SHARPSCHOOL the Fees at such time, and in such manner prescribed by the Order Form (Appendix A). All amounts are payable within thirty (30) days following the receipt of a proper invoice and in U.S. dollars, unless otherwise expressly set forth in the Order Form. The fees due for each Renewal Term may be increased by a percentage amount no greater than the applicable increase in the U.S. Department of Labor's Consumer Price Index for all Urban Consumers, U.S. City Average ("CPI-U"). In each instance, the CPI-U will be measured over a twelve (12) month period which ends on the month which is six (6) months immediately prior to the first month of the contract year for which the increase would apply. SHARPSCHOOL would notify Customer of any such increase in the invoice submitted prior to the contract year at issue.

**5.2 Invoicing & Payment.** Fees for the Service for the Initial Term will be invoiced within five (5) days from the date hereof. Unless otherwise stated in an invoice, charges are due net thirty (30) days from the latter of (a) receipt of a proper invoice; or (b) the Effective Date for the Initial Term; or (c) the anniversary of the Effective Date for a renewal term. Customer shall pay a late payment charge of 3% per month on any unpaid amount for each calendar month that any payments to SHARPSCHOOL are in arrears. If the Customer wishes to begin installation before proposed installation date, the Customer will be required to pay a pro-rated cost for the early start.

**5.3 Taxes.** SHARPSCHOOL's rates, fees and other charges set forth in this Agreement and any Order Form do not include, and are free and clear of deduction for any and all present or future or indirect taxes, levies, customs, duties, deductions, charges or withholdings, and all liabilities (including penalties, additions to tax, interest and expenses) with respect thereto, including but not limited to value added tax, sales tax, consumption tax and similar taxes or duties, as well as any city, municipal, state or corporate taxes or any withholding taxes, whether currently imposed or to be imposed in the future (collectively "Taxes"), for which the Customer will be responsible. Customer is responsible for paying all Taxes associated with its purchases hereunder or under any Order Form, excluding taxes based on SHARPSCHOOL's net income or property. If SHARPSCHOOL has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides SHARPSCHOOL with a valid tax exemption certificate authorized by the appropriate taxing authority.

**5.4 Audit Rights.** SHARPSCHOOL shall have the right to use the capabilities of the Service to confirm the number of Users using the Service and Customer's compliance with this Agreement.

**5.5 Suspension of Service.** If Customer's account is thirty (30) days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, SHARPSCHOOL reserves the right to suspend the Service provided to Customer, with ten (10) days prior written notice and opportunity to cure, without liability to Customer, until such amounts are paid in full.

## 6. Proprietary Rights

**6.4 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, SHARPSCHOOL reserves all rights, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein. Subject to the limited rights expressly granted hereunder, Customer reserves all rights, title and interest in and to the Customer Data, including all related intellectual property rights. No rights are granted to SHARPSCHOOL hereunder other than as expressly set forth herein.

**6.5 Restrictions.** Customer shall not (and shall use commercially reasonable efforts not to allow any User or third party to): (a) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Service except to the extent that enforcement is prohibited by applicable law notwithstanding a contractual provision to the contrary; (b) circumvent any user limits or other timing or use restrictions that are built into the Service; (c) remove any proprietary notices, labels, or marks from the Service; (d) frame or mirror any content forming part of the Service; (e) access the Service in order to (i) build a competitive product or service, or (ii) copy any ideas, features, functions or graphics of the Service; or (f) use all or any portion of the Service for hazardous purposes requiring fail-safe performance, such as aircraft navigation, air traffic control, or weapons systems, in which the failure of the Service could lead directly to death, personal injury, or severe physical or environmental damage.



**6.6 Suggestions.** SHARPSCHOOL shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual, unrestricted license to use or incorporate into the Service any suggestions, enhancement requests, recommendations or other feedback provided by Customer or its Users relating to the operation of the Service.

**7. Confidentiality**

**7.1 Definition of Confidential Information.** As used herein, "Confidential Information" means all confidential and proprietary information of a party (the "Disclosing Party") disclosed to the other party (the "Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement, the Service, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

**7.2 Confidentiality.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission.

**7.3 Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).

**7.4 Compelled Disclosure.** If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

**7.5 Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

**7.6 Publicity.** Neither party may issue press releases relating to this Agreement without the other party's prior written consent. Each party may include the name and logo of the other party in lists of customers or vendors in accordance with the other party's standard guidelines.

**8. Warranties & Disclaimers**

**8.1 Warranties.** Each party represents and warrants that it has the legal power to enter into this Agreement. SHARPSCHOOL represents and warrants that the Service will not contain or transmit to Customer any Malicious Code (except for any Malicious Code contained in User or Customer-uploaded materials or otherwise originating from Customer or a User).

**8.2 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, SHARPSCHOOL MAKES NO REPRESENTATIONS AND PROVIDES NO WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS, INCLUDING ANY REPRESENTATIONS, WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**9. Indemnification**

**9.1 Indemnification by SHARPSCHOOL.** Subject to this Agreement, SHARPSCHOOL shall indemnify Customer against any damage (including reasonable attorneys' fees) awarded to a third party against Customer by a court of competent jurisdiction in any proceedings made or brought against Customer by a third party alleging that the use of the Service as contemplated hereunder infringes the intellectual property rights of a third party ("IP Claims"); subject to the condition that Customer (a) promptly gives written notice of each IP Claim to SHARPSCHOOL; (b) gives SHARPSCHOOL sole control of the defense and settlement of each IP Claim (provided that SHARPSCHOOL may not settle or defend any IP Claim unless it unconditionally releases Customer of all liability); and (c) provides to SHARPSCHOOL, at SHARPSCHOOL's cost, all reasonable assistance in respect to each IP Claim.

**9.2 Mitigation.** If (a) SHARPSCHOOL becomes aware of an actual or potential IP Claim, or (b) Customer provides SHARPSCHOOL with notice of an actual or potential IP Claim, SHARPSCHOOL may (or in the case of an injunction against Customer, shall), at SHARPSCHOOL's sole option and determination: (I) procure for Customer the right to continue to use the Service; or (II) replace or modify the Service with equivalent or better functionality so that Customer's use is no longer infringing; or (III) if (I) or (II) are not commercially reasonable, terminate provision of the Service and refund to Customer any pre-paid Service fees for any periods after the termination of the Service, less any outstanding moneys owed by Customer to SHARPSCHOOL.

**9.3 Exclusions.** The obligations in Sections 9.1 and 9.2 do not extend to (1) any IP Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Service furnished by SHARPSCHOOL with other products, software or services not provided by SHARPSCHOOL; (2) any IP Claim related to any Customer Data, or (3) any IP Claim related to any use or exercise of any other right in respect to the Service outside the scope of the rights granted in this Agreement.

**10. Limitation of Liability**

**10.1 Limitation of Liability.** IN NO EVENT SHALL SHARPSCHOOL'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CUSTOMER HEREUNDER IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY.

**10.2 Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOST SAVINGS OR OTHER SIMILAR PECUNIARY LOSS) HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**11. Term & Termination**

**11.1 Term of Agreement.** This Agreement shall commence as of the Agreement Effective Date and shall continue in effect for a term of 3 (three) years (the "Initial Term") as set forth in the Order Form. Thereafter, the term of the Agreement shall be automatically renewed on the expiry of the Initial Term for additional one (1) year renewal terms (any such subsequent renewal terms referred to in this Agreement as a "Renewal Term"), unless either party gives written notice of non-renewal to the other party at least sixty (60) days prior to the end of the Initial Term or any Renewal Term hereof. Collectively, the Initial Term and any subsequent Renewal Terms shall constitute the "Term".

**11.2 Termination for Cause.** A party may terminate this Agreement for cause: (i) upon thirty (30) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**11.3 Outstanding Fees.** Upon the termination of an Order or of this Agreement, as the case may be, all amounts owing or accrued to SHARPSCHOOL hereunder through the date of termination shall immediately become due and payable. In addition, if termination occurs due to Customer breach, SHARPSCHOOL shall in addition to other rights and remedies be entitled to all fees that would have been otherwise payable by Customer to the expiration of the Term ("Termination Fee"). The Customer acknowledges that the Termination Fee represents liquidated damages and not a penalty. The Customer acknowledges that the actual damages suffered as a result of termination would be extremely difficult to calculate, and that the Termination Fee represents a reasonable estimate of actual damages. SHARPSCHOOL shall, within thirty (30) days after the effective date of termination, send Customer an invoice for all work performed and all applicable charges incurred under an Order prior to the effective date of termination, as well as (if applicable) the Termination Fee.

**11.4 Surviving Provisions.** The following provisions shall survive any termination or expiration of this Agreement: Sections 5 through 12.

**12. General Provisions**

**12.1 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**12.2 Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given in the manner set forth in the Terms of Use; provided, however, that notice of any e-mail communication shall be deemed to be received 48 hours after an e-mail is sent.

**12.3 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**12.4 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**12.5 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, each party may assign this Agreement in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its stock or assets. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**12.6 Governing Law.** This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the province of Ontario and exclusive jurisdiction and venue for all matters relating to this Agreement shall be in the province of Ontario. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety from application to this Agreement. In the event of a dispute arising out of or in connection with the terms of this Agreement between Customer and SHARPSCHOOL, then Customer agrees to attempt to settle the dispute by engaging in good faith negotiations with SHARPSCHOOL in a process of mediation before commencing litigation. The parties confirm that it is their wish that this Agreement as well as all other documents relating to this Agreement, including notices, be drawn up in English only.

**12.7 Force Majeure.** Neither party shall be responsible for its failure to perform to the extent due to unforeseen circumstances or causes beyond its control, including but not limited to acts of God, wars, terrorism, riots, embargoes, acts of civil or military authorities, fires, floods, accidents, or strikes, labour problems (other than those involving the employees of the affected party), computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within a party's possession or reasonable control, provided that such party gives the other party prompt written notice of the failure to perform and the reason therefore and uses its reasonable efforts to limit the resulting delay in its performance.

**12.8 Entire Agreement.** This Agreement, including all schedules, exhibits and addenda hereto constitute(s) the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any schedule, exhibit or addendum hereto, the terms of this Agreement shall prevail.

**12.9 Marketing.** Customer permits SHARPSCHOOL to include the Customer's name and an example of the Customer's home page, including a link to the Customer's website, on the SHARPSCHOOL corporate website and/or in any SHARPSCHOOL marketing materials, whether hard copy or electronic. Customer will make a reasonable attempt to work with the SHARPSCHOOL marketing department to create a case study related to their website.

**12.10 Counterparts.** This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

IN WITNESS WHEREOF, the parties by their authorized representatives and intending to be legally bound have entered into this Agreement upon execution of same, as indicated below (the "Effective Date"):

**INTRAFINITY INC o/a SHARPSCHOOL**

**Galion City School District**

Signature: 

Signature: \_\_\_\_\_

Print Name: John Carbrey

Print Name: \_\_\_\_\_

Title: Chief Executive Officer

Title: \_\_\_\_\_

Date: June 3, 2015

Date: \_\_\_\_\_