This agreement and any exhibits attached hereto sets forth the agreement between Lynxspring, Inc. (Lynxspring) and “Customer Name” (**Customer**) and will confirm the purchase of the License(s) selected below (the **Agreement**). Customer hereby agrees to a term license for the products and/or services selected below pursuant to the pricing set forth below and upon the License Terms and Conditions set forth herein.

Products, Services & Pricing:

Access to the following products and/or services selected below is for the applicable number of named authorized Customer employees (the “Authorized Audience”) during the period of time from the Start Date through the End Date (the **License Term**).

**LICENSE TERM: START DATE:**  **END DATE:**

|  |  |
| --- | --- |
| **PRODUCT** | **AUTHORIZED AUDIENCE** |
| FULL ONLINE ACCESS SUBSCRIPTION | \_\_ 1 User\_\_ 5 Users\_\_ 10 Users |

# PRODUCT DEFINITIONS.

**License Consumption** occurs when a member of the Authorized Audience has accessed the Lynxspring Learning Center platform “the Platform” (each such person, a “Licensed User”). Further, once a member of the Authorized Audience has accessed the Platform, that member is considered to have consumed a license for the Product which has been assigned to that member for the remainder of the then current annual License Term.

**Course Object** shall mean current and future online computer-based training materials developed and owned by Lynxspring and/or its licensors in the content areas relating to Niagara, building controls, HVAC, developed products, systems, processes and any other application content related to the aforementioned areas. The materials provided hereunder have been developed with subject matter expertise from within Lynxspring as well as various third parties but are intended for informational and educational purposes only and do not constitute legal advice or guarantee compliance with any federal, state or local laws or regulations. Although Lynxspring undertakes all reasonable efforts to maintain the legal accuracy of this content and make updated content available to customers, neither Lynxspring, nor any of its employees or third party vendors represents or warrants that the content reflects current legal developments; customers are encouraged to consult local counsel before taking any action based on the content or information provided hereunder.

**License Term** shall mean the period of time from the Start Date through the End Date.

**Certification** shall mean the N4 certification exam.

**LICENSE FEES.** Customer’s total committed license fees hereunder are set forth below and are calculated as follows. Applicable state and local taxes are not included in the totals below and are the responsibility of the Customer:

|  |  |
| --- | --- |
| **USER COUNT** | **ANNUAL LICENSE FEES** |
| 1 | $900 |
| 5 | $2600 |
| 10 | $4500 |

All fees shall be invoiced annually in advance and are due and payable 100% net 30 days from the date of invoice.

Any Licensed User that has completed all modules related to the N4 certification course online can register to take the N4 certification exam for a fee or $1000. The certification exams are not given remotely, and must be taken either at Lynxspring headquarters or at an off-site location. The subscription to the online training documents does not prevent a Company from sending students to the in-class training. Any company that has an active subscription will received 10% off the currently published training prices for classes hosted by Lynxspring.

# LICENSE TERMS AND CONDITIONS

Subject to the restrictions stated herein Lynxspring grants to the Customer who has executed this Agreement below, and Customer accepts, a nonexclusive, non-transferable license, without the right to sublicense, to the products and services selected for internal training purposes only for Customer employees, without the right to exchange during the License Term except as set forth herein. Lynxspring agrees that Customer may reassign: a) up to the total number of the Authorized Audience learner IDs in each agreement year effective on the anniversary of the License Term or b) for Customer’s full-time regular employees, at any time during the License Term provided the learner IDs are reassigned from learners no longer employed with Customer effective that year.

The license does not convey any ownership rights to Customer in the Lynxspring Product(s), Lynxspring’s web site architecture or other Lynxspring proprietary information, but only a limited use right pursuant to this Agreement. Customer shall not (a) transfer, rent, lease, loan or disclose the Lynxspring Product or intellectual property to any third party; (b) reverse engineer, disassemble, decompile or attempt to derive source code from the Lynxspring Product; (c) modify or create derivative works based upon the Lynxspring Product(s); (d) remove any proprietary notices, or trademarks or service marks on any Lynxspring Product(s); (e) merge the Lynxspring Product(s), with another program; (f) use the Lynxspring Product(s), for any purposes other than those stated in the Agreement; (g) have any right to any source code for the Lynxspring Product(s), or (h) permit any party not specifically licensed herein to use the Lynxspring Product(s).

Customer shall ensure that only the members of the Authorized Audience licensed herein access the Lynxspring Product(s). Customer will maintain records of all use and copying of the Lynxspring Product(s) and assignment of all login identifications used to access the Lynxspring Product(s). Lynxspring shall have the right to examine such records and to audit Customer’s access to and usage of the Lynxspring Product(s) to verify compliance with the Agreement. Upon expiration or termination of the License Term, the Licensed User access will terminate.

In order to protect Lynxspring’s licensors and/or publishers intellectual property rights, Lynxspring may disable any individual’s access to the Lynxspring Product(s) immediately if, such individual’s use of the license violates the terms and conditions of this Agreement.

The license fees set forth above do not include taxes. Customer shall be responsible for payment of all applicable taxes, however designated or incurred, in connection with this Agreement, including without limitation, state and local excise, sales, withholding and use taxes and any other applicable governmental assessments.

Lynxspring shall not be liable for any special, incidental, indirect, exemplary or consequential damages (including without limitation loss of profits, loss of data, costs of cover), however caused and based on any theory of liability, for any claims or causes of action arising out of or related to this Agreement. These limitations will apply even if Lynxspring has been informed of the possibility of such damages.

FURTHERMORE, IN NO EVENT SHALL LYNXSPRING’S LIABILITY UNDER THIS AGREEMENT OR ARISING OUT OR RESULTING FROM CUSTOMER’S USE OF ANY LYNXSPRING PRODUCT(S) EXCEED THE LICENSE FEES PAID UNDER THIS AGREEMENT WITH RESPECT TO SUCH LYNXSPRING PRODUCT(S).

LYNXSPRING GRANTS NO WARRANTIES WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED. LYNXSPRING SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SPECIFICALLY, AND NOT IN LIMITATION OF FOREGOING, LYNXSPRING DOES NOT WARRANT THAT ANY LYNXSPRING PRODUCT(S) WILL MEET CUSTOMER REQUIREMENTS OR THAT THE OPERATION OF ANY LYNXSPRING PRODUCT(S) WILL BE UNINTERRUPTED OR ERROR FREE.

The License and this Agreement is governed by the laws of the state of Missouri, without reference to its conflict of laws provision. Both parties will comply with all applicable international, federal, state, and local laws and regulations in performing its obligations hereunder, including, without limitation, all U.S. export regulations. Contractor Services licensed under this Agreement are Commercial Computer Software under United States Federal Government Acquisition Regulations and agency supplements thereto. Contractor Services are provided to the federal government and its agency only under the Restricted Rights Provision of the Federal Acquisition Regulations applicable to commercial software developed at private expense and not in the public domain. The use, duplication or disclosure by the government is subject to restrictions as set forth in subdivision (c) (1) (ii) of the Rights in Technical Data and Computer Software at DFAR 252 227-7013. Unless exempt, Customer and Lynxspring shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. If applicable, the Customer and Lynxspring shall also abide by the requirements 41 CFR § 61-300.10 regarding veterans’ employment reports and 29 CFR Part 471, Appendix A to Subpart A regarding posting a notice of employee rights.

Customer will be eligible to participate in Lynxspring's customer reference program which may include, but is not limited to, participation in customer case studies, press releases, collateral, and opportunities with media and industry analysts. Lynxspring is permitted to use Customer’s name and logo in lists with other customers (including listing of customers on its website). However, Lynxspring shall not use Customer’s name in any other advertising material (including, without limitation, online or print-based advertisements) without advance authorization from Customer, which will not be unreasonably delayed, conditioned or withheld. Except as set forth in this Section above, there shall be no public announcement of this Agreement or the relationship between the Parties without mutual review and approval by both Parties.

This Agreement, set forth in US English, (including Exhibits attached hereto) constitutes the entire understanding and agreement between the parties and supersedes all prior and contemporaneous proposals, agreements and representations between them, whether written or oral, including any translated versions. If any provision of this license is not enforceable, it will be severed from this license and the remainder will remain in full force and effect. Customer shall not assign the Agreement in whole or in part, whether by operation of law or otherwise, without the advance, written consent of Lynxspring. Any purported transfer or assignment in violation of this Agreement shall be null and void and of no force and effect. This Agreement may only be amended in writing signed by Customer and an authorized signatory of Lynxspring that explicitly states that it is intended to amend this Agreement. No terms contained in Customer purchase orders, acknowledgments, shipping documents or other forms or documents shall have any force or effect over the licenses granted herein. The failure or delay by either party in exercising any right or remedy hereunder shall not operate as a waiver of any such right, power or remedy. Waiver by either party of any default shall not waive any prior, concurrent or subsequent defaults by the other part

(Signatures on Next Page)

The authorized representatives of Lynxspring and Customer have executed this Agreement signifying their agreement to its contents.

LYNXSPRING, INC. Customer

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By: By:

Name: Name:

Title: Title:

Date: Date:

# CUSTOMER INFORMATION EXHIBIT

Billing Information:

|  |  |
| --- | --- |
| Contact |  |
| Phone |  |
| E-mail |  |
| Address |  |
| City |  |
| State |  |
| Country |  |
| Zip code |  |

Shipping Information:

|  |  |
| --- | --- |
| Contact |  |
| Phone |  |
| E-mail |  |
| Address |  |
| City |  |
| State |  |
| Country |  |
| Zip code |  |