



## Regulatory Online Training and Testing Agreement

This AGREEMENT by and between StateFoodSafety, a division of AboveTraining, Inc.™ (SFS), and Siskiyou County Environmental Health Department (AGENCY) is to be effective this 15th day of November 2023.

1. Term, Termination, Limitations. The term of this Agreement shall commence on the date hereof and shall continue, unless sooner terminated as provided herein, for a period of three (3) years thereafter (the "Initial Term"). Thereafter, this Agreement shall automatically renew, upon written agreement, without interruption for successive three (3) year periods upon the same terms and conditions ("Renewal Term") unless either party gives written notice of its intent not to renew the Agreement at least ninety (90) days before the beginning of any Renewal Term. For purposes of this Agreement, "Term" means the Initial Term and all Renewal Terms.
  - a. Mutual Termination Events. Either Party may terminate this Agreement upon the occurrence of any of the following events:
    - i. the breach by the other Party of any material term or condition of this Agreement, provided that such breach is not cured within thirty (30) days after notice of the breach is given by the non-breaching Party to the breaching Party;
    - ii. bankruptcy of the other Party, upon fifteen (15) days prior written notice to the other Party.
  - b. Effect of Termination. Upon any termination or expiration of this Agreement, all licenses granted hereunder shall terminate, each party shall immediately cease using the intellectual property of the other Party, and any payments accrued or due and owing from AGENCY to SFS hereunder at the time this Agreement is terminated shall be paid pursuant to the payment provisions of this agreement. Notwithstanding the foregoing, to the extent that any AGENCY authorized customer has paid for, but not completed, a course, such AGENCY authorized customer shall have the right to finish the course within a reasonable time.
2. Definitions.
  - a. Products provided by SFS, described as "program(s)," may include courseware, assessments, and other related materials as outlined in Appendix A.
  - b. Services provided by SFS, described as "services," include but are not limited to payment processing, customer support, marketing efforts, web hosting, database maintenance, accreditation maintenance, certificate issuance, dedicated client services, and other efforts necessary for delivering the programs as outlined in Appendix A.
  - c. Individuals authorized by AGENCY to use the programs and access the services may be described as "AGENCY authorized customer(s)" under the terms of this agreement.
3. Regulatory Fees. SFS shall collect all regulatory fees at the time AGENCY authorized customers register for and purchase the program, if applicable. Unless otherwise agreed in writing, signed by both AGENCY and SFS, payment of regulatory fees is required at the time of registration. SFS shall maintain records of all regulatory fees paid by AGENCY authorized customers for the lifetime of this agreement and for at least one (1) year following termination.
4. Marketing and Implementation.
  - a. AGENCY will provide a written letter of approval of the SFS programs described in APPENDIX A that may be used to provide evidence of SFS ability to provide training in AGENCY's jurisdiction. A template may be provided by SFS, as needed.
  - b. AGENCY, if relevant, will provide logo (high-resolution [300 dpi; minimum 800px length/width] PNG file for quality certificate printing), signature for certificates, and other materials as requested by SFS to launch the programs.
  - c. SFS will provide URL to AGENCY to place on AGENCY website.
  - d. SFS will create administrative accounts for AGENCY officials in SFS Learning Management System (LMS) and provide tutorials and any required training.
  - e. SFS may, upon request, provide marketing materials to AGENCY to assist in AGENCY promotion of program.
5. Pricing.
  - a. Pricing is detailed in Appendix A.
  - b. SFS maintains the right to adjust its portion of program prices in the future to remain competitive. Any changes to the training price will not affect AGENCY fees. This change can occur as SFS deems necessary and will not require an addendum to this agreement or prior notification to AGENCY.
  - c. Third-party proctors such as Prometric testing centers, ProctorU online proctoring, or other approved proctors charge fees that SFS may collect and remit. These fees are subject to change outside the control of SFS and cannot be discounted. These fees may change without AGENCY notification.
6. Ownership Rights.
  - a. Under the terms and conditions of this Agreement, SFS may modify regulatory-approved programs at its discretion. Should program content be affected in a manner affecting coverage of required topics, SFS will submit the program or affected program components to AGENCY for reevaluation.
  - b. All rights to course content, artwork, copyrights, trade secrets, source code, user data, passwords, intellectual property, and any other materials relating to the programs, products and services ("SFS Intellectual Property"), and any improvements or derivative works made by SFS or by AGENCY or AGENCY authorized customers to the SFS Intellectual Property ("Improvements"), are owned by SFS and except as expressly set forth herein, SFS reserves all right, title, and interest in and to same. To the extent that AGENCY or AGENCY customer obtains any right, title, or interest or to any SFS Intellectual Property or Improvements, AGENCY hereby assigns, and agrees to assign, all right, title, and interest in and to same to SFS and shall procure such assignment from AGENCY customer for the benefit of SFS.

- c. AGENCY shall not copy, duplicate, distribute, modify, enhance, or infringe any portion of the SFS programs (licensed materials) or property. AGENCY shall not use any portion of the SFS programs except as explicitly provided herein.
  - d. In signing this agreement, AGENCY grants SFS permission to use logos or trademarks in the development and maintenance of AGENCY products, marketing materials, and certificates as described in Appendix A.
7. Learning Management System (LMS). SFS will utilize its proprietary LMS to deliver training and testing programs, track and maintain user records, issue certificates, verify certificates, provide customer support, deliver program vouchers, and other necessary program functions. SFS will grant to AGENCY administrative access to all pertinent learner records, subject to any state and federal laws or regulations.
8. Support.
- a. SFS will provide end-user customer service in the following areas:
    - i. Technical support
    - ii. General billing inquiries
    - iii. Fulfilling purchase orders
    - iv. Responding to questions regarding online training content (subject matter expertise)
9. Representations.
- a. Pertaining to this Agreement, SFS will jointly provide approved training and testing programs with AGENCY.
10. Limitation of Liability. Except in connection with (i) a breach of Section 9 (Nondisclosure of Confidential Information), (ii) for claims that a Party infringed the other Party's intellectual property rights, or (iii) for claims arising out of a Party's gross negligence or willful misconduct, under no circumstances, including any infringement claims, shall either Party be liable to the other, or any other party for any re-procurement costs, lost revenue or profits or for any other special, incidental or consequential damages, even if either Party has been informed of such potential loss or damage. EXCEPT AS EXPRESSLY SET FORTH HEREIN, NEITHER PARTY MAKES ANY WARRANTIES, EXPRESS OR IMPLIED, AND EACH PARTY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE GOODS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.
11. Mutual Nondisclosure of Confidential Information. Each Party acknowledges that it may have access to certain confidential information of the other Party concerning the other Party's business, plans, clients, technologies, products, and other information held in confidence by the other Party ("Confidential Information"). Confidential Information includes all information in tangible or intangible form that is marked or designated as confidential or that, under the circumstances of its disclosure, should reasonably be considered confidential. Confidential Information shall also include the pricing information contained in Appendix A to this agreement. Each Party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by or required to achieve the purposes of this Agreement, nor disclose to any third party (except as required by law or to that party's attorneys, accountants and other advisors as reasonably necessary) any of the other Party's Confidential Information and will take reasonable precautions to protect the confidentiality of such information, at least as stringent as it takes to protect its own Confidential Information.
- a. Exceptions. If any disclosure of Confidential Information is required by law, government regulation, or court order, the receiving Party may make such disclosure upon prior written notice to the disclosing Party so that the disclosing Party may seek a protective order or take other protective action, and the receiving Party shall cooperate therewith.
12. Indemnification. Each Party agrees to indemnify the other against and hold it harmless from any claims, damages, losses, and/or liabilities caused (or alleged to be caused) by its own personnel. This includes, without limitation, indemnification against claims arising from personal injury or damage to property caused (or alleged to be caused) by either Party or any of its personnel. Indemnification includes, without limitation, the payment of judgments, settlements, reasonable attorneys' fees, and other costs and expenses.
13. Existing Contracts Warranties. Each Party warrants that it has the right to enter into this Agreement and that this Agreement does not conflict with any other contract or agreement to which it is a party.
14. Internet Delays. The products and services provided under this agreement may be subject to limitations, delays, failures, and other problems inherent in the use of the internet that fall outside SFS's control. SFS is not responsible for any such delays, delivery failures, or other damages resulting from such problems.
- a. During the term of this Agreement, SFS agrees to make the program available for access twenty-four (24) hours per day, seven (7) days per week, with uptime of no less than 99% during any calendar year. Should SFS experience unexpected downtime of longer than 30 minutes from the start of downtime, SFS will provide email communication to AGENCY with estimated time of resolution.
  - b. SFS agrees to take normal and commercially reasonable steps to secure its websites, databases, program materials, and customer information, in accordance with its standard security and operating procedures.
15. Assignment and Successors. This Agreement is not assignable or transferable, except in connection with any reorganization, consolidation, acquisition, sale, merger of either Party, or the acquisition of substantially all of either Party's assets. Any such assignment must first be approved in writing by the non-assigning Party, where such approval may not be unreasonably withheld.
16. Force Majeure. Neither Party shall be deemed in breach of this Agreement for any failure to perform an obligation where such failure is caused by an Act of God, labor dispute or shortage, or any other circumstances or cause beyond the control of that Party.

- 17. Waiver and Severability. The failure of either Party to enforce any provision of this Agreement shall not be deemed a waiver of that provision or of the right of the Party to thereafter enforce that or any other provision. In the event that any provision of this Agreement is held to be invalid, unenforceable, or illegal, the provision will be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.
- 18. Attorneys' Fees. In the event of any litigation or arbitration between the Parties relating to this Agreement or the Services or Products, the prevailing Party shall be entitled to recover from the other Party all reasonable attorneys' fees and other reasonable costs incurred by the prevailing Party in connection therewith.
- 19. Notices. All notices from one party to the other will be deemed official if sent by certified mail with return receipt requested, facsimile with corresponding confirmation, email with corresponding phone confirmation, or by air express courier, to the address listed in this agreement.
- 20. Jurisdiction and Venue. SFS acknowledges that this agreement shall be construed under and in accordance with the laws of the regulatory agency. Jurisdiction and venue of any action under this agreement shall be in the federal or state courts in Illinois.
- 21. Market Research Cooperation. The Parties agree that they will cooperate in designing and implementing a reasonably tailored market research system taking into account the economics contemplated hereunder, including but not limited to post-test surveys that will assist the Parties in gaining a better understanding of the online training market. The costs related thereto shall be paid by SFS, including any expenses incurred by AGENCY. However, reimbursement for such costs shall require prior written approval from SFS.
- 22. Signatures. All terms and conditions of this Agreement are agreed to by duly authorized officers of the Parties, whose signatures are set forth below.

Siskiyou County Environmental Health Department

806 South Main Street

Yreka, CA 96097

T: 530-841-2100

F: 530-841-4076

[lmflagg@co.siskiyou.ca.us](mailto:lmflagg@co.siskiyou.ca.us)

Signature \_\_\_\_\_

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

Print Title \_\_\_\_\_

Date (MM/DD/YYYY) \_\_\_\_\_

StateFoodSafety

225 E Robinson St

#570

Orlando, FL 32801

T: (801) 494-1416

F: (801) 226-4315

[regulatory@statefoodsafety.com](mailto:regulatory@statefoodsafety.com)

Signature \_\_\_\_\_

Kimberly Brophy

General Manager, StateFoodSafety

Date (MM/DD/YYYY) \_\_\_\_\_

## APPENDIX A

## Training Products

Food Handler Training	<input type="checkbox"/> Food Handler <input checked="" type="checkbox"/> Food Handler (ANSI) <input type="checkbox"/> Food Handler Essentials <input type="checkbox"/> Food Handler Essentials (ANSI) <input type="checkbox"/> Other:	<input type="checkbox"/> Invoice <input checked="" type="checkbox"/> User Pay <input checked="" type="checkbox"/> AGENCY Fee Collected	SFS Training Price: \$10.00 AGENCY Fee: \$5.00** Total Price: \$15.00 **see Additional Notes
Food Manager Training	<input type="checkbox"/> Food Manager <input type="checkbox"/> Food Manager (ANSI) <input type="checkbox"/> Other:	<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay <input type="checkbox"/> AGENCY Fee Collected	SFS Training Price: AGENCY Fee: Total Price:
Allergens Awareness Training	<input type="checkbox"/> Allergens Awareness	<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay <input type="checkbox"/> AGENCY Fee Collected	SFS Training Price: AGENCY Fee: Total Price:
Bloodborne Pathogens Training	<input type="checkbox"/> Bloodborne Pathogens	<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay <input type="checkbox"/> AGENCY Fee Collected	SFS Training Price: AGENCY Fee: Total Price:
Custom Training:		<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay <input type="checkbox"/> AGENCY Fee Collected	SFS Training Price: AGENCY Fee: Total Price:

## Food Protection Manager Certification Exam

Food Manager Exam	<input type="checkbox"/> Food Manager Exam <input type="checkbox"/> Food Manager Exam (ANSI)  <input type="checkbox"/> Bundled with Training	<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay <input type="checkbox"/> AGENCY Fee Collected	Exam Price: AGENCY Fee: Total Price:  Bundled Price: AGENCY Fee: Total Price:
Proctoring Information	<input type="checkbox"/> Testing Center <input type="checkbox"/> Remote Proctoring <input type="checkbox"/> Provide own proctor <ul style="list-style-type: none"> <li><input type="checkbox"/> Full e-sign form</li> <li><input type="checkbox"/> Proctor list provided</li> <li><input type="checkbox"/> Special process (See Additional Notes)</li> </ul>	<input type="checkbox"/> Invoice <input type="checkbox"/> User Pay	Testing Center Price: Remote Proctoring Price:

## Certificate Type

Certificate Type	<input type="checkbox"/> State Certificate <input type="checkbox"/> Custom Certificate	<input type="checkbox"/> Printed Card <input type="checkbox"/> AGENCY Logo <input type="checkbox"/> AGENCY Signature
Special Instructions	<input type="checkbox"/> Health Department Visit <input type="checkbox"/> Temporary Card <input type="checkbox"/> Other:	

## Website

Webpage*	<input type="checkbox"/> Generic <input checked="" type="checkbox"/> Custom**	URL: <a href="https://www.statefoodsafety.com/food-handler/california/siskiyou-county">https://www.statefoodsafety.com/food-handler/california/siskiyou-county</a>
Custom Portal	<input type="checkbox"/> Existing <input type="checkbox"/> New	Existing URL: New URL:

\*For a contracted FH course, a custom webpage is required. For a contracted FM course, the default is generic but can be customized if required by AGENCY.

Reporting & AGENCY Fee Remittance

Type of Report	<input type="checkbox"/> Courses Purchased <input type="checkbox"/> Certificates Awarded <input type="checkbox"/> Other: _____	
Report Frequency	<input type="checkbox"/> AGENCY self-service <input type="checkbox"/> SFS	<input type="checkbox"/> Bi-weekly (Every two weeks) <input type="checkbox"/> Semi-Monthly (Twice monthly) <input type="checkbox"/> Monthly <input type="checkbox"/> Deadline: _____ <input type="checkbox"/> Other: _____
AGENCY Fee Basis	<input type="checkbox"/> Courses Purchased <input type="checkbox"/> Certificates Awarded <input type="checkbox"/> Other: _____	<input type="checkbox"/> Bi-weekly (Every two weeks) <input type="checkbox"/> Semi-Monthly (Twice monthly) <input type="checkbox"/> Monthly <input type="checkbox"/> Deadline: _____ <input type="checkbox"/> Other (See Notes)

Additional Notes:

\*\* Health Department fee (\$5.00) is collected and remitted only for products sold via SFS Learn More Page website accessed via the link from AGENCY website. <https://www.co.siskiyou.ca.us/environmentalhealth/page/food-handler-information>  
<https://www.statefoodsafety.com/food-handler/california/siskiyou-county>

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the dates set forth below, each signatory represents that they have the authority to execute this agreement and to bind the Party on whose behalf their execution is made.

COUNTY OF SISKIYOU

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

\_\_\_\_\_  
ED VALENZUELA, CHAIR  
Board of Supervisors  
County of Siskiyou  
State of California

ATTEST:  
LAURA BYNUM  
Clerk, Board of Supervisors

By: \_\_\_\_\_  
Deputy

CONTRACTOR: State Food Safety  
225 E Robinson St  
#570  
Orlando, FL 32801

Date: 6/28/2023

DocuSigned by:  
Kimberly Brophy - General Manager  
5AD858F035B147E...

Date: 6/28/2023

Kimberly Brophy - General Manager  
DocuSigned by:  
Tiffani Williams  
BF052003FC37423...

License No.: \_\_\_\_\_  
(Licensed in accordance with an act providing for the registration of contractors)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1189 & 1190 and Corps. Code, Sec. 313.)

TAXPAYER I.D. \_\_\_\_\_

ACCOUNTING:

Fund	Organization	Account	Activity Code (if applicable)
2114	401014	551780	

Encumbrance number (if applicable):

If not to exceed, include amount not to exceed:

*If needed for multi-year contracts, please include separate sheet with financial information for each fiscal year.*