

# HFI's CERTIFIED PRACTICE in USABILITY™ (CPU)

## CERTIFICATION AUDIT AGREEMENT

This Certification Audit Agreement (“Agreement”) is made as of the last date signed by Human Factors International, Inc., (“HFI”), and the party named in the signatory section below (“Client”) collectively know as the “parties”, for the purpose of HFI providing a Certification Audit of the Client’s organization (“Practice”) such that the Client organization can become a “Certified Practice in Usability”.

### DEFINITIONS

“Audit” shall mean HFI’s review and verification of Client’s documentation as submitted by Client as required by the HFI document entitled “Certified Practice in Usability – Submission Form for Certification”, provided separately.

“Certified Practice in Usability” shall mean a certification provided by Human Factors International, Inc (HFI) to an organization as a result of an Audit performed to verify that the Client organization has a given level of maturity in its ability to deliver usable designs. The requirements and submission requirements for the certification are more fully described at <http://www.humanfactors.com/certification/CPU.asp>; which is incorporated into this Agreement by reference.

“Service(s)” shall mean the activities undertaken by HFI in performing the Audit required by this Agreement.

“Usability” shall mean the result of an activity which is capable of producing designs that have been optimized for human usage with respect to task completion speed, accuracy, self evident (minimized training requirement), satisfaction, and safety. It does not mean that every user will be able to operate the offering in a flawless, error free or safe way. It means that care is taken to optimize the design so that the overall usage by the target population of users is effective.

1. **AUDIT PROCESS and RESULTS.** In order to pass the Audit or renewal, and to be designated as a "Certified Practice in Usability", the Client documentation and subsequent validation by HFI will have to demonstrate, in HFI’s sole opinion, the Client has a validated level of Usability maturity based on the presence of trained and certified staff, user-centered design methods, standards, and tools. The organization will also be rated for its executive attention to Usability, organizational structure, and culture of care of customers. The organizational submission will be systematically reviewed and audited by HFI staff to ensure compliance with the stated requirements included at <http://www.humanfactors.com/certification/CPU.asp>.
2. **DELIVERY of SERVICES.** HFI will provide the initial Audit or annual renewal as soon as reasonably possible after receipt of the Client “Submission Form for Certification” and payment of the required fee as shown under the section below “Service Fee and Payment”. Upon completion of the Services, HFI will deliver the Audit result to the Client. If the Client has passed the Audit, the Client will receive the “Certified Practice in Usability” stamp to be used by the Client as appropriate. This stamp is not applicable to Client applications and/or products. In addition to the stamp, the Client will receive a certificate and plaque signifying this accomplishment. HFI will retain the submitted material and a copy of the Audit result

for archive purposes. Delivery of these items (results and stamp, if applicable) will constitute delivery under this Agreement.

3. **ACCEPTANCE.** All Services delivered by HFI to Client pursuant to this Agreement are “as is” and no acceptance criteria will apply.
4. **SERVICE FEE AND PAYMENT.** For the Services performed by HFI in auditing the Client organization to the “Certified Practice in Usability” requirements the fee shall be \$8,795. The annual renewal is \$2,795. All payments must be made in advance and are not refundable. All payments are in U.S. Dollars.
5. **CONFIDENTIALITY.** Client may, from time to time, in connection with its performance under this Agreement, disclose confidential and proprietary information, including, without limitation, information comprising or relating to its intellectual property rights, product formulae, trade secrets, know-how, processes, techniques, ideas, research and development, improvements, inventions (whether or not patentable), and other information (“Confidential Information”) to HFI. HFI agrees not to use (other than for purposes contemplated by this Agreement), and will use reasonable efforts to prevent the disclosure to third parties of, any of Client’s Confidential Information. HFI’s confidentiality obligation hereunder shall not apply to information that HFI can document: (i) was in HFI’s possession or known by it prior to receipt from Client; (ii) is or (through no fault of HFI or any of its employees, contractors, agents or HFI’s) becomes generally available to the public; (iii) is rightfully disclosed to HFI by a third party having no obligations of confidentiality to Client, provided that HFI complies with any restrictions imposed by such third party; (iv) is independently developed by HFI without use of or reference to Client’s Confidential Information;
6. **DISCLAIMER OF WARRANTIES.** HFI DISCLAIMS WARRANTIES, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATING TO THE SERVICES AND ANY DOCUMENTATION PROVIDED BY HFI IN CONNECTION THEREWITH, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AS TO FITNESS FOR A PARTICULAR USE OR MERCHANTABILITY. CLIENT ACKNOWLEDGES THAT HFI HAS NO KNOWLEDGE OF, OR CONTROL OVER, THE FINAL USE OF THE SERVICES BY CLIENT.
7. **LIMITATION OF LIABILITY.** UNLESS PROHIBITED BY LAW, NEITHER HFI NOR THE CLIENT WILL BE LIABLE TO THE OTHER FOR LOST REVENUE, LOST PROFIT, OR LOST DATA. NEITHER HFI NOR THE CLIENT WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE USE OF THIS SERVICE, EVEN IF HFI OR THE CLIENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY. In no event will HFI’s liability to Client, whether in contract, tort (including negligence), or otherwise, exceed the amount actually paid by Client under this Agreement, which will not exceed \$8,795 USD. The foregoing limitations will apply even if the above stated warranty fails of its essential purpose.
8. **TERMINATION.** This Agreement is effective until the Services have been delivered. Even after termination, the sections on disclaimer of Warranties and Limitation of Liabilities still

apply. HFI may terminate this Agreement if Client fails to delivery the required documentation for the Audit with in thirty (30) days of the date of this Agreement. The Service Fee is not refundable. Client may terminate the Agreement prior to receiving the Delivery of Services results, but the Service Fee is not refundable.

9. **GOVERNING LAW.** This Agreement will be construed, interpreted and governed by the laws of the State of Iowa, USA, without regard to conflicts of law provisions thereof.
10. **FORCE MAJEURE.** HFI shall not be liable for any loss, damages, default and/or delay in the performance of its obligations hereunder if and to the extent such loss, damages, default and/or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature, explosion, strike, war, insurrection, embargo, government requirement, act of civil or military authority, or acts of God or the public enemy; or any other similar cause beyond the reasonable control of HFI (collectively referred to herein as "Force Majeure").
11. **DISPUTE RESOLUTION; WAIVER OF JURY TRIAL.** A dispute arising out of or relating to this Agreement, or an alleged breach thereof, shall be addressed by good faith negotiations between the cognizant senior executive of each party (or his/her designee). By agreeing to the foregoing the parties specifically waive their respective rights to a jury trial of any claim or cause of action relating to or arising out of this Agreement.
12. **NONSOLICITATION.** Client and HFI agree that for a period of twelve (12) months after the date of termination or cessation of this Agreement, neither party will solicit nor attempt to solicit any employee or consultant of the other party, or hire, engage, or otherwise employ any such person, even if such person initiates the request for such employment or engagement.

**ENTIRE AGREEMENT.** This Agreement is the entire agreement between HFI and Client relating to the Services. The Agreement supersedes all prior agreements, including oral and written communications. Therefore, the parties' signatories hereto have executed this Agreement as follows:

**Human Factors International, Inc.**

(HFI)  
410 West Lowe Avenue  
  
Fairfield, IA 52556

\_\_\_\_\_  
(Client Name/Address)

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

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

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

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

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

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

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