



EXFO INC.

EXFO CERTIFIED CONTRACTOR PROGRAM TERMS AND CONDITIONS

1. PURPOSE– This EXFO Certified Contractor Program Terms and Conditions ("Terms and Conditions") is a legal document between you ("you" or "Contractor") and EXFO Inc ("EXFO") regarding your participation in the EXFO Certified Contractor Program ("Program"). The terms of these Terms and Conditions apply to your participation in the Program, including your access to and use of any EXFO Certified Contractor Program benefit, and EXFO Certified Contractor Certificate, that EXFO makes available to you as part of the Program. Please read these Terms and Conditions carefully. **BY ACCESSING OR USING AN EXFO CERTIFIED CONTRACTOR PROGRAM BENEFIT, OR EXFO CERTIFIED CONTRACTOR CERTIFICATE, YOU ACCEPT THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS, DO NOT ACCESS OR USE ANY EXFO CERTIFIED CONTRACTOR PROGRAM BENEFIT, OR EXFO CERTIFIED CONTRACTOR CERTIFICATE.**

2. DEFINITIONS

2.1. Certificate

Means a document issued by EXFO signifying Certification.

2.2. Certification

Means passing the requisite training and exams and maintaining compliance with all certification requirements to use the Certificate and Certification Logo or to represent oneself as an EXFO Certified Contractor.

2.3. Certification Benefits

Means the benefits an EXFO Certified Contractor has upon achieving and maintaining a Certification status, including the use of the Certification Logo and the Certificate in accordance with the Terms and Conditions herein.

2.4. Certification Logo

Means the logo used to signify an individual's compliance with the requirements for the Certification.



2.5. EXFO Certified Contractor

Means the contractor detaining a valid Certification.

3. CERTIFICATION PROCESS

3.1. To obtain Certification and become an EXFO Certified Contractor, the Contractor must comply with the following requirements:

- (i) Obtain all required training provided by EXFO under this Program;
 - (ii) Pass all the required exams and satisfy all certification requirements as exposed in the training;
 - (iii) Pay the required training fee, if applicable;
 - (iv) Accept these Terms and Conditions
 - (v) Comply with these Terms and Conditions; and
 - (vi) Comply with all additional requirements as set out in the training, if applicable.
- 3.2. EXFO may, at its sole discretion, change the Certification requirements at any time by posting such change on the Program's website. You and/or EXFO Certified Contractor will be allowed three (3) full calendar months from the date the change was posted to comply with additional requirements. The EXFO Certified Contractor's right to represent itself as such and use any of the certification benefits may terminate if they fail to comply with any additional requirements.

4. TRAINING FEES

4.1. Training fees are set out as follows, excluding T&L: FE-1148

- a) Scheduled Live On-Line training: \$300 per person;
- b) On Request Live On-Line training: \$2,455
- c) On Site training : \$2,455

4.2. All Training Fees are payable in USD. Unless otherwise specified, payments shall be made by prepaid wire transfer or by letter of credit. It is at the sole discretion of EXFO, following a proper credit check, to offer any credit terms. EXFO may apply a 1.5% monthly interest charge on late payments.

4.3. The Training Fees are payable by the Contractor is subject to the various applicable taxes and any other tax which may become applicable in the future.

5. CERTIFICATION BENEFITS

5.1. EXFO shall issue a Certificate to EXFO Certified Contractor who is granted a non-exclusive licence to represent itself as being Certified. The EXFO Certified Contractor can use and publicise it's Certificate to identify itself as being Certified by the displaying of the Certificate. The issuance of a Certificate by EXFO does not constitute a licence to represent itself as a representative of EXFO.

5.2. You may not use, or reproduce, the Certificate in any manner whatsoever other than as described in these Terms and Conditions. The EXFO Certified Contractor will use the Certification Benefits in a



manner that does not derogate from the rights of EXFO and will take no action that may interfere with or diminish the rights of EXFO or damage EXFO's reputation. EXFO Certified Contractor will not use the Certification Benefits in a way that may cause confusion about whether any products or services you offer are EXFO products or services.

5.3. Upon meeting the requirements for certification, the EXFO Certified Contractor is authorized to use the Certification Logo according to the Terms and Conditions herein.

6. USE OF CERTIFICATION LOGO

6.1. The Certification Logo may only be used by an EXFO Certified Contractor and then may only be used after the obtention of the Certification and then may only appear in advertising, promotional material or other literature only in reference to its Certification status.

6.2. All rights not expressly granted herein are reserved by EXFO. You acknowledge EXFO has sole ownership of the Certification Logo and that nothing in these Terms and Conditions, in the EXFO Certified Contractor's performance, or that might otherwise be implied by law, shall give you any right, title, or interest in the Certification Logo, other than the authorization specifically granted herein.

6.3. The EXFO Certified Contractor may not use or reproduce the Certification Logo in any manner whatsoever other than as described herein.

6.4. The Contractor that does not maintain its Certification status or loses such status, regardless of the reason, must immediately cease the use of the Certification Logo and remove it from any of its material.

7. CONDUCT OF BUSINESS

7.1. The EXFO Certified Contractor shall conduct all of its business in its name and in such a manner it may see fit. The EXFO Certified Contractor shall pay all expenses relating to its office and activities and for the acts and expenses of its employees. The EXFO Certified Contractor shall be responsible for any and pay all expenses which EXFO Certified Contractor incurs, including, but not limited to, rental, salaries, taxes, licenses, permits, advertising, telephone expenses and other EXFO Certified Contractor incurred business expenses.

7.2. Nothing in these Terms and Conditions shall be construed to constitute the EXFO Certified Contractor as an associate, employee or agent of EXFO nor shall either party have any authority to bind the other in any respect, it being intended that each party shall remain an independent contractor responsible only for its own actions.

7.3. The EXFO Certified Contractor shall not make representations or guarantees concerning EXFO. In the event that the EXFO Certified Contractor does allow or furnish representations or guarantees of any nature whatsoever, which may tend to involve the responsibility or liability of EXFO, then the EXFO Certified Contractor shall indemnify and hold EXFO harmless from any claims, demands, damages, costs or losses whatsoever arising out of any or in any way connected with such representations or guarantees.

7.4. Neither the EXFO Certified Contractor, nor its owners, directors, employees, agents or other representatives have or will directly or indirectly, offer or pay anything of value (including gifts, travel, entertainment expenses and charitable donations) to (i) any official or employee of any government, government agency, political party, or public international organization; (ii) any candidate of political office; or (iii) any employee of a commercial customer or supplier, for the purpose of obtaining or retaining business or securing any improper advantage. The EXFO Certified Contractor agrees to accurately document all transactions related to these Terms and Conditions, in the EXFO Certified Contractor's financial books, records, statements, and in reports or other documents provided to EXFO. The EXFO Certified Contractor agrees to comply with the terms of the EXFO Agent Code of Conduct, which is available at: <http://investors.exfo.com/governance.cfm>. The EXFO Certified Contractor agrees that the handling and disbursement of funds related to an EXFO transaction must be pursuant to a duly authorized EXFO written contract or purchase order with clearly defined procedures. No undisclosed or unrecorded fund or asset related to any EXFO transaction may be established or maintained for any purpose. EXFO reserves the right to audit the EXFO Certified Contractor's compliance with the terms of this section 8 on an annual basis or upon reasonable suspicion of non-compliance either through a questionnaire or through EXFO's own investigative processes, which may require site visits by EXFO. Upon EXFO's reasonable request, the EXFO Certified Contractor shall permit EXFO or a third party designated by EXFO, to audit any records that the EXFO Certified Contractor has related to such audit of compliance or non-compliance. EXFO shall disclose the result of the audit to the EXFO Certified Contractor and the EXFO Certified Contractor shall implement any required improvements to bring the EXFO Certified Contractor in compliance, if applicable. The EXFO Certified Contractor agrees that any violation of this section constitutes just cause for the immediate termination by EXFO of your participation in the Program without any liability incurred by EXFO to the EXFO



Certified Contractor. The EXFO Certified Contractor will also indemnify and hold EXFO, and subsidiaries, parents and affiliates harmless from any claims, losses and liabilities resulting from (i) any breach of any of the EXFO Certified Contractor's obligations under this section; and (ii) any violation to EXFO's Agent Code of Conduct. The obligations under this section shall survive the termination or expiration of these Terms and Conditions.

8. TERM AND TERMINATION

8.1. The Certification is valid for a period of twenty-four (24) months upon completion and is subject to renewal as per internal process.

8.2. EXFO may terminate the Program and/or modify the Terms and Conditions, including termination and revocation of any Certifications to which these Terms and Conditions relates, and termination of your use of the corresponding Certification Benefits, immediately upon the occurrence of any one of the following events (each a "Cause"):

- (i) you fail to comply with any of the terms of these Terms and Conditions, including, without limitation, the terms governing the use of the Certification Logo;
- (ii) you misappropriate or disclose any trade secret or Confidential Information of EXFO (including, but not limited to, any EXFO training or Confidential Information with respect to which you are under obligation of confidentiality), or otherwise infringe any other intellectual property right of EXFO, or engage in any other activities prohibited by law;
- (iii) you fail to comply with the applicable certification requirements for the certification; or
- (iv) a government agency, regulatory agency or court finds that services you provided concerning the EXFO products to which your certification relates are defective in any way.

In the event any of the above occurs, EXFO may provide you with written notice of termination of these Terms and Conditions.

8.3. EXFO reserves the right to immediately terminate, modify or cancel the Program or these Terms and Conditions without notice at its sole discretion.

8.4. Upon termination of the Program or of your Certification, you shall immediately cease all use of any Certification Logo and Certificate to which these Terms and Conditions relates.

8.5. If the EXFO Certified Contractor should become insolvent or bankrupt or admit in writing its inability to pay its debts as they come due, or make an assignment for the benefit of its creditors, or cease to function as a going concern, to conduct its operations in the normal course of business, or commits a material breach to these Terms and Conditions, EXFO shall be entitled to

immediately terminate your Certification by providing written notice to the EXFO Certified Contractor.

11. **SURVIVAL** – Sections 2,12,13,14, 15, 16, 17 and 18 will survive termination of these Terms and Conditions. The Contractor agrees that EXFO and it's affiliates and subsidiaries will not be liable to the Contractor or any third party for costs or damages of any sort resulting from the termination of these Terms and Conditions and the suspension or cancellation of the Program or your Certification.

12. **NON-COMPETITION** –EXFO Certified Contractor shall not, manufacture, in any form, during the term of Certification, any product that could be considered by EXFO as competitive with any of the products. EXFO Certified Contractor shall be liable for all damages incurred by EXFO as a consequence of a breach of this obligation.

13. TRADEMARKS

13.1. EXFO Certified Contractor shall not use the name "EXFO Inc." or the name of any EXFO affiliates or use any trademarks or trade name owned by EXFO or its affiliates as part of its firm, corporate, or business name and shall not use these trademarks or trade names, in any way except to designate the products in accordance with these Terms and Conditions. Upon termination of these Terms and Conditions, EXFO Certified Contractor will immediately take all appropriate steps to remove and cancel listings in telephone books and other directories, in public records, domain name registrars or elsewhere, which designate EXFO Certified Contractor as representing products. If EXFO Certified Contractor fails to obtain such removals or cancellations, EXFO Certified Contractor hereby agrees that EXFO shall be entitled to carry out such removals or cancellations on behalf of EXFO Certified Contractor and in EXFO Certified Contractor's name at EXFO Certified Contractor's cost and expense including reasonable attorney fees.

13.2. All trademarks, trade names, patents, inventions (including discoveries, improvements and ideas, regardless of whether or not patentable), know-how, industrial designs, copyrights and other proprietary information ("Intellectual Property Rights") regarding EXFO's business, activities or products are the sole property of EXFO which is solely responsible for their protection, whether or not EXFO Certified Contractor was involved in any way, solely or jointly with others, in the making or conception of such. EXFO Certified Contractor agrees to promptly and fully inform EXFO of any infringement or alleged infringement by any person it becomes aware of and to give full collaboration and assistance to EXFO, if EXFO judges it



necessary, in the defence of the Intellectual Property Rights. EXFO Certified Contractor agrees to assign to EXFO all rights or alleged rights it may have in Intellectual Property Rights and to all applications for registration of Intellectual Property Rights and to execute, acknowledge and deliver to EXFO any written authorization or other legal document as EXFO may request to obtain and maintain EXFO's sole rights in the Intellectual Property Rights.

14. IRREPARABLE HARM – EXFO Certified Contractor acknowledges that a breach of the covenants in Sections 12, 13 and 18 hereof shall result in immediate irreparable and irremediable damage to EXFO. In the event of such failure, EXFO shall be entitled to relief in the way of temporary or permanent injunctions and such other and further relief as any court or arbitrator with jurisdiction may deem just and proper.

15. NO WARRANTIES

EXFO DOES NOT GUARANTEE THE CONTRACTOR'S SATISFACTION WITH THE PROGRAM OR ITS RESULTS. EXFO DOES NOT GUARANTEE THE QUALITY OF WORK, RESULTS OR REPORTING OF THE EXFO CERTIFIED CONTRACTOR. EXFO AND ITS AFFILIATES MAKE NO WARRANTIES REGARDING THE PROGRAM, THE PROGRAMS OUTCOME, THE CERTIFICATION BENEFITS, AND HEREBY DISCLAIMS ALL WARRANTIES THAT MIGHT OTHERWISE BE IMPLIED BY LAW.

16. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EXFO OR ITS AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES ARISING OUT OF OR RELATED TO THE PROGRAM, THE EXFO CERTIFIED CONTRACTOR'S CERTIFICATION, FAILURE TO ACHIEVE CERTIFICATION, EXFO CERTIFIED CONTRACTOR'S REPRESENTATIONS, ANY OF THE EXFO CERTIFIED CONTRACTOR'S ACTIONS, THE EXFO CERTIFIED CONTRACTOR'S QUALITY OF WORK, REPORTS, PROCESSES, PROCEDURES OR RESULTS, OR THE USE OR INABILITY TO USE THE CERTIFICATION BENEFITS. THIS EXCLUSION WILL APPLY REGARDLESS OF THE LEGAL THEORY UPON WHICH ANY CLAIM FOR SUCH DAMAGES IS BASED, EVEN IF THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

17. INDEMNITY – You agree to defend, indemnify, and hold EXFO and its Affiliates harmless from and against any and all third-party claims, demands, costs, liabilities, judgments, losses, expenses, and damages ("Claim") (including attorneys' costs and fees) arising out of, in connection with, or related to (a) your participation in the

Program; (b) your use of any Certification Benefits in a manner which is in any way inconsistent with the terms of these Terms and Conditions; (c) the performance, promotion, sale, or distribution of your services; or (d) the termination of these Terms and Conditions by EXFO pursuant to the terms in these Terms and Conditions. EXFO shall promptly advise you in the event of any claim that is lodged against it and, in such event; you may, but shall not be obliged to assume the defence on behalf of EXFO. You agree that you will not settle or compromise or consent to the entry of any judgment in any pending or threatened action on behalf of EXFO in respect of which indemnification may be sought hereunder, without the prior written consent of EXFO. The indemnity, contribution and reimbursement provisions mentioned above shall remain operative and in full force and effect regardless of any termination of these Terms and Conditions.

18. CONFIDENTIALITY

18.1. EXFO Certified Contractor agrees not to disclose to any third party, or use for any purpose unrelated to these Terms and Conditions, any of the proprietary information or information which by its nature appears to be Confidential Information, that may be disclosed by EXFO in the course of these Terms and Conditions.

18.2. If EXFO Certified Contractor becomes legally compelled to disclose any of the Confidential Information, EXFO Certified Contractor will provide EXFO with prompt notice in order that it may seek a protective order or other appropriate remedy or waive compliance with the provisions of these Terms and Conditions. In the event that such protective order or other remedy is not obtained, or that compliance herewith is waived, only that portion of the Confidential Information that is legally required (as determined by written opinion of counsel addressed to both parties) will be furnished and the EXFO Certified Contractor shall exercise its best efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information so furnished.

18.3. EXFO Certified Contractor shall use the same degree of care that it uses to protect its own confidential and proprietary information of similar importance, to prevent unauthorized use, disclosure, publication or dissemination of EXFO's Confidential Information, but no less than a reasonable degree of care.



18.4. "Confidential Information" means all data and information, notwithstanding the method of communication, relating to EXFO's business, training, training methods and materials and products, including without limitation, Intellectual Property Rights, components, services, research and development, techniques, manufacturing processes, marketing and financial data, computer software, sales policies, identity of suppliers, know-how and any other data or information, with the exception of information and data that:

- a) was rightfully in EXFO Certified Contractor's possession before receipt from EXFO;
- b) is or becomes a matter of public knowledge through no fault of EXFO Certified Contractor;
- c) is rightfully received by EXFO Certified Contractor from a third party who has no duty of confidentiality;

- d) is independently developed by EXFO Certified Contractor without use of the Confidential Information;
- e) is disclosed under operation of law; or
- f) is approved for release by written authorization of EXFO.

19. SEVERABILITY – If any part of these Terms and Conditions are held by a competent tribunal to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

20. APPLICABLE LAWS – These Terms and Conditions shall be governed in all respects, whether as to validity, interpretation, capacity, performance or otherwise according to the laws of the province of Quebec, Canada and the Federal laws applicable therein except as to its conflict of laws provision.