

# INGRID Home Security

## Associates Program Operating Agreement

**Updated: 25 September 2008**

This Agreement contains the complete terms and conditions that apply to an individual's or entity's participation in the InGrid Services LLC Associates Program (the "Program"). As used in this Agreement, "InGrid," "we," "us," or "our" refers to InGrid Services LLC or any of our affiliate companies, and "Associate" or "you" means the applicant. "InGrid Site" means the [ingridhome.com](http://ingridhome.com) web site, which has its primary home page identified by the URL [www.ingridhome.com](http://www.ingridhome.com). "Your site" means any site that you will link to the InGrid Site (and which you will identify in your Program application). "Referral ID" means a unique alphanumeric identifier that we assign to you for the purpose of tracking sales that you refer to us.

### **1. Enrollment in the Program**

Enrollment in the Program is open to current InGrid customers. If you are not an InGrid customer, you must first become a customer before enrolling in the Program. To begin the enrollment process, you must submit a complete Program application. We will evaluate your application in good faith and will notify you of its acceptance or rejection. Participation in the Program is limited to parties that lawfully can enter into and form contracts under applicable law. For example, minors are not allowed to participate in the Program. We may reject your application if we determine (in our sole discretion) that your site or intended marketing means is unsuitable for the Program.

### **2. Selling and Marketing**

Once you have been notified that you have been accepted into the Program, and subject to the terms of this Agreement, InGrid authorizes you to serve as a non-exclusive independent contractor to refer customers within the United States to InGrid using the InGrid Site. You are permitted to market online and offline, using any combination of web sites, retail, door-to-door, direct-mail, or similar activities consistent with the InGrid products, services, offerings, promotions, and brand.

We will provide you with access to a password-protected web site with various "InGrid Marketing Assets," including electronic materials suitable for printing, distributing, emailing, and placement on your site. You agree not to disclose the password to anyone else. We grant you a revocable, non-exclusive, worldwide, royalty-free license for the duration of the term of this Agreement, solely for purposes of facilitating referrals to the InGrid Site, to use the InGrid Marketing Assets on your site or in your marketing activities. You are not permitted to market InGrid or use any InGrid Marketing Asset on an unsuitable site or in an unsuitable activity. Unsuitable sites and activities include, but are not limited to, those that:

- promote sexually explicit materials
- promote violence
- promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age
- promote illegal activities
- include "ingrid" or any other trademark of InGrid, Inc. or its affiliates, or variations or misspellings of any of them, in their URLs to the left of the top-level domain name (e.g., ".com," ".net," ".org," etc.); for example, a URL such as "ingrid.mydomain.com," "inrgid.com," or "ingridservices.net" would be unsuitable
- otherwise violate intellectual property rights.

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By participating in the Program, you agree that you will not engage in any such activities. You should note that if we accept your application and your site or your marketing activities are thereafter determined (in our sole discretion) to be unsuitable for the Program, we may terminate this Agreement.

### **3. Referral Fees**

We will pay you (in accordance with Sections 4 and 5 below) Referral Fees on certain product and service sales to third parties who use your Referral ID when placing their order. For a product or service sale to be eligible to earn a Referral Fee, the Referral ID must be entered at the time of the order on the InGrid Site. The Referral ID may be entered manually in a field we provide on the InGrid Site, or the Referral ID will be automatically added to the order if the customer's web browser contains a valid cookie linked to your Referral ID.

If the customer clicks through a Special Link (defined below) from your site to the InGrid Site that contains your Referral ID, the InGrid Site will place a cookie (i.e., HTTP cookie or web cookie) in the customer's web browser under the following conditions:

- if the web browser already contains a cookie placed there by a "Free for Life" referral, the InGrid Site will not accept a cookie from a Special Link from an Associate.
- if the web browser already contains a cookie placed there by a third-party Associate, a new cookie with your Referral ID cookie will overwrite the existing third-party Associate's cookie.
- if the web browser already contains an existing cookie linked to your Referral ID and the customer later clicks through a Special Link from a third-party Associate, the third-party Associate's cookie will overwrite the existing cookie linked to your Referral ID.

All cookies placed in the customer's web browser by Special Links expire 30 days after the cookie is placed there. Multiple customer orders may be placed within the 30-day period in which the cookie is valid. If a valid cookie exists in the customer's web browser, the InGrid Site will not allow a Referral ID to be entered manually.

You will earn Referral Fees only with respect to activity on the InGrid Site in which your Referral ID was entered at the time the order was placed; we will not be liable to you with respect to any failure by you to use Special Links or for the customer's failure to manually enter a Referral ID, including to the extent that such failure may result in any reduction of amounts that would otherwise be paid to you pursuant to this Agreement. To permit accurate tracking, reporting, and fee accrual, you must ensure that the Special Links between your site and the InGrid Site are properly formatted. We will not be liable for paying Referral Fees on purchases that are not correctly tracked and reported because the links between your site and the InGrid Site are not properly formatted. In addition, we will not pay Referral Fees for any purchases made by customers referred to us through Special Links generated or displayed in response to general Internet search queries or keywords. Only one Referral ID can be applied to any one customer order. All decisions of InGrid with respect to the payment of Referral Fees will be final.

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### 4. Referral Fee Schedule

During each calendar month, for Qualifying New Customers and Qualifying Products sold in which your Referral ID was entered in the customer order, you will earn (subject to the other terms of this Agreement) Referral Fees in accordance with the fee structure described below. "Qualifying New Customers" are customers that meet all of the following criteria: (a) purchases and fully pays for an InGrid system bundle with a new 2-year monitoring agreement; (b) does not return the InGrid system bundle or cancel during the 30-day money-back guarantee period; (c) activates their InGrid system online via the [www.myingrid.com](http://www.myingrid.com) web site and accepts InGrid's Terms of Service ("TOS"); (d) makes their first service payment, generally billed 30 days after purchase; (e) has not been an InGrid customer or service has not been provided at that address within the last 24 months, and (f) enters your Referral ID at the time the order was placed on the InGrid Site. "Qualifying Products" are accessories other than InGrid system bundles in which the order was placed with your Referral ID and the products are not returned during the 30-day money-back guarantee period. No Referral Fees will be earned on the shipping and tax portions of an order. Credits earned toward "Free for Life" do not also earn Referral Fees.

#### **Level A**

An Associate selling up to 100 Qualifying New Customers in a calendar year will be paid according to the Level A fee schedule as follows:

For each Qualifying New Customer on a 2-year alarm monitoring plan:	\$230
For each Qualifying New Customer on a 2-year personal monitoring plan:	\$75
For each Qualifying Product, as a percent of Qualifying Product revenue:	6%

#### **Level B**

An Associate selling over 100 Qualifying New Customers in a calendar year will be paid according to the Level B fee schedule below. The total number of Qualifying New Customers shipped in a calendar year will be used to determine your "tier" level. Once a higher Referral Fee is achieved within a calendar year, the higher Referral Fee rate will apply to all Qualifying New Customers earned from Qualifying New Customers during that calendar year, including Qualifying New Customers sold before the new tier was reached. InGrid shall have the right to reimbursement from Level B Associates any Referral Fees paid to Associate relating to customers who terminate service or become more than 60 days delinquent within 6 months after signing the TOS and may deduct or offset owed reimbursements from Associate's Referral Fee payments on an ongoing basis and to retain such deductions or offsets.

For each Qualifying New Customer on a 2-year alarm monitoring plan:	\$275
For each Qualifying New Customer on a 2-year personal monitoring plan:	\$100
For each Qualifying Product, as a percent of Qualifying Product revenue:	6%

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### **5. Referral Fee Payment**

We will pay you Referral Fees on a monthly basis for Qualifying New Customers and Qualifying Products shipped in the applicable month. Approximately 60 days following the end of each calendar month, we will send you a check for the Referral Fees earned. We will accrue and withhold Referral Fees until the total amount due is at least \$100.00. We are obligated by U.S. federal law to obtain tax information from Program participants who are U.S. citizens, U.S. residents, or U.S. corporations and from Program participants who are not U.S. citizens or residents but whose businesses are taxable in the U.S. If we believe you are a Program participant from whom we are obligated to obtain tax information and you do not provide this information to us after we have requested it, we may withhold your Referral Fee payments until you provide this information or otherwise satisfy us that you are not a person from whom we are required to obtain tax information.

### **6. Your Site and Use of Links**

You may provide links from your site to the InGrid Site. We will provide you with guidelines and graphical artwork to use in linking to the InGrid Site. To permit accurate tracking, reporting, and Referral Fee accrual, we will provide you with special "tagged" link formats to be used in all links between your site and the InGrid Site. You must ensure that each of the links between your site and the InGrid Site properly utilizes such special link formats. Links to the InGrid Site placed on your site pursuant to this Agreement and which properly utilize such special link formats are referred to as "Special Links."

You acknowledge that, by participating in the Associates Program and placing any of the above links within your site, we may receive information from or about visitors to your site or communications between your site and those visitors. Your participation in the Program constitutes your specific and unconditional consent to and authorization for our access to, receipt, storage, use, and disclosure of any and all such information, consistent with the policies and procedures set forth in the Privacy Notice on the InGrid Site. You also acknowledge that as a participant in the Program, we may from time to time send you email updates about the Program. By participating in the Program, you consent to our sending you these email updates.

Except for the license granted hereunder, you do not obtain any rights under this Agreement in any intellectual property, including, without limitation, any intellectual property with respect to the Special Links, link formats, technical specifications, guidelines, or graphical artwork referenced above or with respect to the ingridhome.com domain name and any other InGrid intellectual property. Therefore, you agree that we and our corporate affiliates may take such actions and that you will not seek to block or otherwise interfere with such crawling or monitoring (and that we and our corporate affiliates may use technical means to overcome any methods used on your site to block or interfere with such crawling or monitoring).

You may not (a) read, intercept, record, redirect, interpret, or fill in the contents of any electronic form or other materials submitted to us by any person or entity; (b) in any way modify, redirect, suppress, or substitute the operation of any button, link, or other interactive feature of the InGrid Site; (c) make any orders or subscription requests, or engage in other transactions of any kind on the InGrid Site on behalf of any third party, or authorize, assist, or encourage any other person or entity to do so; (d) take any action

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that could reasonably cause any customer confusion as to our relationship with you or as to the site on which any functions or transactions are occurring; (e) attempt to circumvent the Referral Fee schedule or artificially increase your Referral Fees; (f) attempt to intercept or re-direct (including, without limitation, via user-installed software) traffic from or on, or divert Referral Fees from, any web site that participates in the Program; or (g) seek to purchase or register any keywords, search terms, or other identifiers that include the words "ingrid" or any other trademark of InGrid, Inc. or its affiliates or variations or misspellings thereof (e.g., "in-grid," "inrgid," etc.) ("Proprietary Terms") for use in any search engine, portal, sponsored advertising service, or other search or referral service. From time to time, we may request that you cause any applicable web search provider to exclude Proprietary Terms from keywords used to display your advertising content in association with search results, assuming the provider of such web search engine offers such exclusion capabilities. If we determine, in our sole discretion, that you have engaged in any of the foregoing activities or, as the case may be, refused promptly to comply with a request from us to exclude Proprietary Terms from any keyword as mentioned above, we may (without limiting any other rights or remedies available to us) withhold any Referral Fees otherwise payable to you under this Agreement and/or terminate this Agreement.

Further, you acknowledge and agree that you will (a) ensure that any "Privacy Information" link or InGrid trademark (either in logo or text form) that we include in a Special Link is not obscured or altered in any way or made invisible, illegible, or indecipherable to visitors of your site; (b) use any data, images, text, or other information obtained by you from us or the InGrid Site in connection with this Agreement (Content) only in a lawful manner and only in accordance with the terms of this Agreement; (c) not modify or alter any Content that consists of a graphic image other than to resize it; (d) not edit any Content that consists of text other than to shorten its length; (g) not sell, redistribute, sublicense, or transfer any Content; (e) not use any Content in a manner intended to send sales to any site other than the InGrid Site; (f) promptly delete any Content that is no longer displayed on the InGrid Site or that we notify you is no longer available for your use; and (g) not use any Content, including any name or likeness embodied therein, in a manner (e.g., a closely proximate placement to unrelated third-party materials) that implies a person's or company's endorsement or sponsorship of, or commercial tie-in or other association with, any product, service, party, or cause.

### **7. Order Processing**

We will process Product orders placed by you or customers who use your Referral ID when placing orders on the InGrid Site. We reserve the right to reject orders that do not comply with any requirements that we periodically may establish. We will be responsible for all aspects of order processing and fulfillment. Among other things, we will prepare order forms; process payments, cancellations, and returns; and handle customer service. You shall have no signatory authority to bind InGrid to any agreement, and InGrid reserves the right to reject any referral submitted by you. We will track sales made to customers who purchase products and services using your Referral ID and will make available to you reports summarizing this sales activity. The form, content, and frequency of the reports may vary from time to time in our discretion.

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### **8. Confidentiality**

You shall keep confidential all customer-related information disclosed by InGrid to you or learned by you for purposes of this Agreement. All such information shall remain the sole and exclusive property of InGrid, and it may not be directly or indirectly disseminated to any third party without the prior written consent of InGrid.

### **9. Policies and Pricing**

All customers accepted by InGrid under this Agreement will be and will remain customers (and their identity the confidential information) of InGrid and not of you. Accordingly, all of our rules, policies, and operating procedures concerning customer orders, customer service, and product and service sales will apply to those customers. You shall not terminate, attempt to terminate, or otherwise interfere in any way with InGrid's relationship with any such customer. We may change our policies and operating procedures at any time. For example, we will determine the prices to be charged for products and services sold under this Program in accordance with our own pricing policies. Product and service prices and availability may vary from time to time. You agree that you will not impose any direct or indirect charge on customers relating to InGrid's products and services without InGrid's prior written consent. You further agree that you will make no warranties or representations about InGrid's products and services other than as expressly set forth on the InGrid Site or in written materials provided to you by InGrid.

### **10. Identifying Yourself as an Associate**

You may not issue any press release with respect to this Agreement or your participation in the Program; such action may result in your termination from the Program. We will make available to you a graphic image that identifies you as a Program participant. You must display this logo or the phrase "In association with InGrid" somewhere on your site. We may modify the text or graphic image of this notice from time to time. In addition, you may not in any manner misrepresent or embellish the relationship between us and you or express or imply any relationship or affiliation between us and you or any other person or entity except as expressly permitted by this Agreement (including by expressing or implying that we support, sponsor, endorse, or contribute money to any charity or other cause).

### **11. Limited License**

You agree that InGrid is the exclusive owner of all trademarks and trade names relating to the products and services we provide. You may use our trademarks and trade names only for the purpose of advertising and promoting InGrid's products and services, and you shall acquire no proprietary or other rights with respect to such trade names, trademarks or other intellectual property of InGrid. We grant you a nonexclusive, revocable right to use the graphic image and text described in Sections 2 and 10 and such other text or images for which we grant express permission solely for the purpose of identifying your site as a Program participant and to assist in generating product sales. You may not modify the graphic image or text or any other of our images in any way. We reserve all of our rights in the graphic image and text, any other images, our trade names and trademarks, and all other intellectual property

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rights. You agree to follow our Trademark Guidelines; those guidelines may change from time to time. We may revoke your license at any time by giving you written notice.

### **12. Responsibility for Your Business and Your Site**

You will be solely responsible for the development, operation, and maintenance of your business and your site and for all materials that you distribute or appear on your site. For example, you will be solely responsible for:

- operating your site and all related equipment
- ensuring the display of Special Links on your site does not violate any agreement between you and any third party (including without limitation any restrictions or requirements placed on you by a third party that hosts your site)
- creating and posting content on your site and linking to the InGrid Site
- the accuracy and appropriateness of materials distributed by you or posted on your site
- ensuring that materials distributed by you or posted on your site do not violate or infringe upon the rights of any third party (including, for example, copyrights, trademarks, privacy, or other personal or proprietary rights)
- ensuring that materials distributed by you or posted on your site are not libelous or otherwise illegal
- ensuring that your site accurately and adequately discloses, through a privacy policy or otherwise, how you collect, use, store, and disclose data collected from visitors, including that third parties may serve content and/or advertisements and collect information from visitors and may place or recognize cookies on visitors' browsers.

We disclaim all liability for these matters. Further, you will indemnify and hold us harmless from all claims, damages, and expenses (including, without limitation, attorneys' fees) relating to the development, operation, maintenance, and contents of your business and your site.

### **13. Non-Solicitation**

As a condition to your participation in the Program, you agree that (a) for a period of time equal to the greater of (i) as long as you are entitled to receive Referral Fees pursuant to this Agreement or (ii) 24 months following any termination of this Agreement, you shall not and you shall cause your employees and contractors not to solicit in competition with InGrid anyone who is an InGrid customer or has been an InGrid customer during the one year period immediately preceding termination of this Agreement; and (b) you shall not, during the term of this Agreement or at any time following termination of this Agreement, make use of any list of InGrid customers or otherwise divulge any trade secrets or other confidential information of InGrid.

Since other remedies cannot fully compensate InGrid for a violation of this Section 13, (i) InGrid shall be entitled, in addition to any other remedies or relief available to us, to injunctive relief to prevent a violation or halt a continuing violation of the covenants set forth in subparagraphs (a) and (b); (ii) if, in any action before a court or agency empowered to enforce this Agreement, any covenant is found to be unenforceable, such covenant shall be deemed modified to the extent necessary to make it enforceable; and (iii) if InGrid must commence litigation to enforce our rights under this Section 13, we may, if

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successful, recover our reasonable attorney's fees from you in connection with the litigation. In the event of a violation by you of any of the prohibitions set forth in subparagraph (a) and (b) above, InGrid may immediately and irrevocably terminate the payment of any and all Referral Fees that may be payable to you hereunder, regardless of whether InGrid seeks or obtains injunctive relief.

### **14. Compliance with Laws**

As a condition to your participation in the Program, you agree that while you are a Program participant you will comply with all laws, ordinances, rules, regulations, orders, licenses, permits, judgments, decisions or other requirements of any governmental authority that has jurisdiction over you, whether those laws, ordinances, rules, etc. are now in effect or later come into effect during the time you are a Program participant. Without limiting the foregoing obligation, you agree that as a condition of your participation in the Program you will comply with all applicable laws (federal, state or otherwise) that govern marketing email, including without limitation, the CAN-SPAM Act of 2003 and all other anti-spam laws. Each party shall indemnify the other party for claims by a party's respective employees or subcontractors or government entity.

### **15. Term of the Agreement**

The term of this Agreement will begin upon our acceptance of your Program application and will end when terminated by either party. Either you or we may terminate this Agreement at any time, with or without cause, by giving the other party written notice of termination. Upon the termination of this Agreement for any reason, you will immediately cease use of and remove from your site all links to the InGrid Site and all of our trademarks, trade dress, and logos, and all other InGrid Marketing Assets provided by or on behalf of us to you pursuant hereto or in connection with the Program. You are eligible to earn Referral Fees only on sales of Qualifying New Customers and Qualifying Products that occur during the term, and Referral Fees earned through the date of termination will remain payable only if the related orders are not canceled or returned. We may withhold your final payment for a reasonable time to ensure that the correct amount is paid. Any obligation of the either of the parties relating to monies owed as well as any provisions of this Agreement relating to confidentiality, intellectual property, indemnification, limitation of liability, non-solicitation, interference with InGrid's relationship with our customers, and commencement of legal proceedings shall survive any termination of this Agreement.

### **16. Modification**

We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion, by posting a change notice or a new agreement on the InGrid Site. Modifications may include, for example, changes in the scope of available Referral Fees, Referral Fee schedules, payment procedures, and Program rules. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOUR ONLY RECOURSE IS TO TERMINATE THIS AGREEMENT. YOUR CONTINUED PARTICIPATION IN THE PROGRAM FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON THE INGRID SITE WILL CONSTITUTE BINDING ACCEPTANCE OF THE CHANGE.

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### **17. Relationship of Parties**

You and we are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on our behalf. You will not make any statement, whether on your site or otherwise, that reasonably would contradict anything in this Section. You shall be solely responsible for and shall pay all your expenses incurred in connection with the performance of your duties under this Agreement and shall not be entitled to receive any fringe benefits or other benefits of any kind provided by InGrid to our employees. You shall be solely responsible for the payment of all taxes payable with respect to Referral Fees earned by you pursuant to this Agreement.

### **18. Limitation of Liability**

We will not be liable for indirect, special, or consequential damages (or any loss of revenue, profits, or data) arising in connection with this Agreement or the Program, even if we have been advised of the possibility of such damages. Further, our aggregate liability arising with respect to this Agreement and the Program will not exceed the total Referral Fees paid or payable to you under this Agreement during the preceding twelve months. You shall indemnify, defend, and hold harmless InGrid from and against any and all claims, losses, damages, costs, and expenses (including reasonable attorney's fees) arising out of or alleged to have been caused by your breach of this Agreement.

### **19. Disclaimers**

We make no express or implied warranties or representations with respect to the Program or any products or services sold through the Program (including, without limitation, warranties of fitness, merchantability, non-infringement, or any implied warranties arising out of a course of performance, dealing, or trade usage). In addition, we make no representation that the operation of the InGrid Site will be uninterrupted or error free, and we will not be liable for the consequences of any interruptions or errors.

### **20. Independent Investigation**

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT WE MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEB SITES THAT ARE SIMILAR TO OR COMPETE WITH YOUR WEB SITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

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### **21. Arbitration**

Any dispute relating in any way to this Agreement (including any actual or alleged breach hereof), any transactions or activities under this Agreement, or your relationship with us or any of our affiliates shall be submitted to confidential arbitration in Wilmington, Delaware, except that, to the extent you have in any manner violated or threatened to violate our intellectual property rights, we may seek injunctive or other appropriate relief in any state or federal court in the state of Delaware (and you consent to non-exclusive jurisdiction and venue in such courts) or any other court of competent jurisdiction. Arbitration under this agreement shall be conducted under the rules then prevailing of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this Agreement shall be joined to an arbitration involving any other party subject to this Agreement, whether through class arbitration proceedings or otherwise.

### **22. Miscellaneous**

This Agreement will be governed by the laws of the United States and the state of Delaware, without reference to rules governing choice of laws. Any action or proceeding involving this Agreement shall be commenced and maintained only in the courts of Delaware. Each party agrees to be subject to the exclusive personal jurisdiction of the courts of Delaware for such purpose. Any of our obligations under this Agreement may be fulfilled by any of our affiliates on our behalf. You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and be enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes all other agreements, written or oral, between the parties.