

## COMPUTER SOFTWARE LICENSE AGREEMENT

This computer software license agreement ("Agreement") is entered into as of \_\_\_\_\_, 2022, by and between EASLER EDUCATION INC., a Florida corporation ("Licensor") with its principal place of business at 508 N. Harbor City Blvd, Melbourne, Florida 32935, and \_\_\_\_\_, a \_\_\_\_\_ [STATE] \_\_\_\_\_ [ENTITY TYPE] ("Licensee") with its headquarters at \_\_\_\_\_.

### Recitals

A. Licensor develops and markets computer software applications for ADULT EDUCATION AND TRAINING, including VIRTUAL COURSE FILES known as SCORM FILES (the "Software"), which is more particularly described in the course descriptions and other written materials created by Licensor to describe the functionality and use of the Software (the "Documentation"); and

B. Licensee desires to acquire a license to use the Software for TRAINING PURPOSES (the "Intended Use") and Licensor desires to grant Licensee the license.

THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

### 1. Definitions

#### 1.1 Authorized Platform

"Authorized Platform" means the computer or operating system, or both, on which Licensee is authorized to use the Software pursuant to this Agreement. The only platform authorized for use is the Licensee's Learning Management System (Licensee LMS).

#### 1.2 Documentation

"Documentation" means all user manuals and other written material created by Licensor to describe the functionality or assist in the use of the Software.

#### 1.3 Licensee

"Licensee" means \_\_\_\_\_, a \_\_\_\_\_ [STATE] \_\_\_\_\_ [ENTITY TYPE], and includes any employee, consultant, or contractor of Licensee, provided that the employee, consultant, or contractor is using the Software in the performance of his or her duties as an employee, consultant, or contractor of Licensee.

#### 1.4 License Fee

"License Fee" means the fee to be paid by Licensee to Licensor as consideration for the license granted under this Agreement and the right to use the Software and the Documentation. License Fee is set forth in Exhibit A, attached to this Agreement and incorporated by reference.

#### 1.5 Licensor

"Licensor" means EASLER EDUCATION INC., a Florida corporation.

## **1.6 Software**

"Software" means the computer program or programs marketed and sold as SCORM FILES, in object code form only, and the Documentation. Software includes any updates, modification, bug fixes, upgrades, enhancements, or other modifications. It does not include any version of the Software that constitutes a separate product because of differences in function, substance, or features.

## **2. Grant of License**

### **2.1 Grant**

Subject to the terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee a nonexclusive, royalty-bearing, nontransferable license in the Software, to use and reproduce the Software exclusively for the Intended Use on the Authorized Platform and at the Authorized Site and to use the Documentation solely in connection with Licensee's use of the Software.

### **2.2 License Restrictions**

Except as specifically granted in this Agreement, Licensor owns and retains all right, title, and interest in the Software, Documentation, and any and all related materials. This Agreement does not transfer ownership rights of any description in the Software, Documentation, or any related materials to Licensee or any third party. Licensee shall reproduce, install, and render the Software operational only on the Authorized Platform at the Authorized Sites as referenced in Section 1.2. Licensee shall not modify, reverse engineer, or decompile the Software, or create derivative works based on the Software. Licensee shall not distribute the Software to any persons or entities other than Licensee's employees, consultants, or contractors. Licensee may not sell the Software to any person or make any other commercial use of the software. Licensee shall retain all copyright and trademark notices on the Software and Documentation and shall take other necessary steps to protect Licensor's intellectual property rights.

## **3. License Fees**

### **3.1 License Fees**

In consideration for the License granted to Licensee under this Agreement the Licensee shall pay Licensor the License Fee, as set forth on the License Fee Schedule, attached as Exhibit A to this Agreement. Licensee will notify Licensor by email or via a designated automated request system how many seats it would like to purchase. Licensor will provide the seats within one business day to Licensee and submit an invoice to Licensee for payment. Each order after the initial 100 requires a minimum cumulative of 50 seats in total from all courses requested in any given request. License Fees will be fixed for a 5-year period beginning on the Effective Date, unless the change is approved in writing by Licensee. Authority shall pay all undisputed amounts due and payable within thirty (30) days after submission of invoices.

### **3.2 Taxes**

In addition to other amounts payable under this Agreement, Licensee shall pay any and all federal, state, municipal, or other taxes, duties, fees, or withholding currently or subsequently imposed on Licensee's use of the Software or the payment of the License Fee to Licensor, other than taxes assessed against Licensor's net income. Such taxes, duties, fees, withholding, or other charges shall be paid by Licensee or Licensee shall provide the appropriate authority with evidence of exemption from such tax, duty, fee, withholding, or charge. If Licensor is required to pay any such tax, duty, fee, or charge, or to withhold any amount from monies due to Licensor from Licensee pursuant to this Agreement, Licensee shall promptly reimburse Licensor any such amounts.

## **4. Licensor's Obligations**

### **4.1 Deliverables**

Upon execution of this Agreement, Licensor shall deliver the Software to Licensee in a format appropriate for the Authorized Platform at the Authorized Site together with the Documentation, if applicable. Delivery shall be made by electronic means such as through a hyperlink to the cloud service, Google Drive.

## **5. Term and Termination**

### **5.1 Term**

This Agreement, and the license granted under this Agreement, becomes effective on the date set forth in Section 10.11, below. Unless sooner terminated as set forth in Sections 5.2 and 5.3, below, the Agreement shall continue in effect until the expiration of Licensor's rights in the Software.

### **5.2 Termination for Convenience**

Licensee may terminate the Agreement upon providing thirty (30) days' prior written notice to Licensor.

### **5.3 Termination for Cause**

Either party, as applicable, shall have the right, in addition, and without prejudice to any other rights or remedies, to terminate this Agreement as follows:

(a) By Licensor, upon thirty (30) days' written notice, if Licensee fails to pay the amounts due to Licensor pursuant to this Agreement;

(b) By Licensor, upon thirty (30) days' written notice, if there is a change in control of Licensee, whether by sale of assets, stock, or otherwise;

(c) By either party for any material breach of this Agreement, other than failure to make payments under Section 3, that is not cured within thirty (30) days of receipt by the party in default of a notice specifying the breach and requiring its cure; or

(d) By either party, immediately upon written notice, if (1) all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy, (2) a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or (3) the other party is adjudged bankrupt.

### **5.4 Rights on Termination**

Licensor has and reserves all rights and remedies that it has by operation of law or otherwise to enjoin the unlawful or unauthorized use of Software or Documentation. On termination, (a) all rights granted to Licensee under this Agreement cease and Licensee will promptly cease all use and reproduction of the Software and Documentation and (b) Licensee will promptly return all copies of the Software to Licensor or destroy all of Licensee's copies of the Software and so certify to Licensor in writing within thirty (30) days of termination. Sections 2.1, 6, 7, and 8 will survive termination or expiration of this Agreement as will any cause of action or claim of either party, whether in law or in equity, arising out of any breach or default.

## **6. Warranties, Disclaimer and Limitations**

### **6.1 Warranties**

Licensor hereby warrants to Licensee that (a) Licensor is the owner of the Software and the Documentation or has the right to grant to Licensee the license to use the Software and Documentation in the manner and for the purposes set forth in this Agreement without violating any rights of a third party and (b) the media containing the Software will be free from defects from the date of delivery to Licensee, provided that this warranty does not cover defects in the Authorized Platform, internet connectivity issues, or configuration problems subsequent to delivery to Licensee.

## **6.2 Disclaimer**

THE WARRANTIES SET FORTH IN SECTION 6.1, ABOVE, ARE IN LIEU OF, AND THIS AGREEMENT EXPRESSLY EXCLUDES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, (a) ANY WARRANTY THAT THE SOFTWARE IS ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION, OR IS COMPATIBLE WITH ALL EQUIPMENT AND SOFTWARE CONFIGURATIONS; (b) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY; AND (c) ANY AND ALL WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.

## **6.3 Remedies on Breach of Warranty**

In the event of any breach of the warranty set forth in Section 6.1, Licensee's exclusive remedy shall be for Licensor to promptly replace defective Software media; if Licensor is unable to replace the media within thirty (30) days of notification by Licensee of a defect, Licensee's sole remedy is to terminate this Agreement, at which time Licensor will refund any and all unused license fees paid by Licensee pursuant to this Agreement.

## **6.4 Limitation of Liability**

LICENSOR IS NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING THE LOSS OF PROFITS, REVENUE, DATA, OR USE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS INCURRED BY LICENSEE OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF LICENSOR OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. LICENSOR'S LIABILITY FOR DAMAGES UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY LICENSEE TO LICENSOR UNDER THIS AGREEMENT.

## **7. Indemnity**

### **7.1 Infringement Indemnity**

Licensor indemnifies, defends, and holds Licensee harmless from and against any claims, actions, or demands alleging that the Software infringes any patent, copyright, or other intellectual property right of a third party. If use of the Software is permanently enjoined for any reason, Licensor, at Licensor's option, and in its sole discretion, may (a) modify the Software so as to avoid infringement; (b) procure the right for Licensee to continue to use and reproduce the Software and Documentation; or (c) terminate this Agreement and refund to Licensee all license fees paid Licensor. Licensor shall have no obligation under this Section 7.1 for or with respect to claims, actions, or demands alleging infringement that arise as a result of (a) the combination of noninfringing items supplied by Licensor with any items not supplied by Licensor; (b) modification of the Software or Documentation by Licensee or by Licensor in compliance with Licensee's designs, specifications, or instructions; (c) the direct or contributory infringement of any process patent by Licensee through the use of the Software; and (d) continued allegedly infringing activity by Licensee after Licensee has been notified of the possible infringement.

### **7.2 Condition to Indemnification**

Should any claim subject to indemnity be made against Licensor or Licensee, the party against whom the claim is made agrees to provide the other party with prompt written notice of the claim. Licensor will control the defense and settlement of any claim under Section 7.1. The indemnified party agrees to cooperate with the indemnifying party and provide reasonable assistance in the defense and settlement of such claim. The indemnifying party is not responsible for any costs incurred or compromise made by the indemnified party unless the indemnifying party has given prior written consent to the cost or compromise.

## **8. Confidentiality**

### **8.1 Confidentiality**

Licensee acknowledges that the Software and Documentation, and all information relating to the business and operations of the Licensor that Licensee learns or has learned during or prior to the term of this Agreement, may be the valuable, confidential, and proprietary information of the Licensor. During the period this Agreement is in effect, and at all times afterwards, Licensee, and its employees, contractors, consultants, and agents, will (a) safeguard the confidential information with the same degree of care that it uses to protect its own confidential information;

(b) maintain the confidentiality of this information; (c) not use the information except as permitted under this Agreement; and (d) not disseminate, disclose, sell, publish, or otherwise make available the information to any third party without the prior written consent of Licensor. In the event that Licensor shall receive any confidential and proprietary information of Licensee during or prior to the term of this Agreement, Licensor, and its employees, contractors, consultants, and agents shall have the same obligation to protect such information as apply to the Licensee as provided in the previous sentence.

### **8.2 Limitations on Confidentiality Restrictions**

Section 8.1 does not apply to any information that (a) is already lawfully in the receiving party's possession (unless received pursuant to a nondisclosure agreement); (b) is or becomes generally available to the public through no fault of the receiving party; (c) is disclosed to the receiving party by a third party who may transfer or disclose such information without restriction; (d) is required to be disclosed by the receiving party as a matter of law (provided that the receiving party will use all reasonable efforts to provide the disclosing party with prior notice of such disclosure and to obtain a protective order therefor); (e) is disclosed by the receiving party with the disclosing party's approval; and (f) is independently developed by the receiving party without any use of confidential information. In all cases, the receiving party will use all reasonable efforts to give the disclosing party thirty (30) days' prior written notice of any disclosure of information under this agreement. The parties will maintain the confidentiality of all confidential and proprietary information learned pursuant to this Agreement for a period of three (3) years from the date of termination of this Agreement.

### **8.3 Injunctive Relief for Breach**

Licensor and Licensee acknowledge that any breach of Section 8.1 by a receiving party will irreparably harm the disclosing party. Accordingly, in the event of a breach, the disclosing party is entitled to promptly seek injunctive relief in addition to any other remedies that the disclosing party may have at law or in equity.

## **9. Export Controls and Restricted Rights**

### **9.1 Export Controls**

The Software, the Documentation, and all underlying information or technology may not be exported or re-exported into any country to which the U.S. has embargoed goods, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. Licensee shall not export the Software or Documentation or any underlying information or technology to any facility in violation of these or other applicable laws and regulations. Licensee represents and warrants that it is not a national or resident of, or located in or under the control of, any country subject to such export controls.

## **9.2 *Restricted Rights***

The Software and Documentation are provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1) of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19, subparagraph (c)(1)(ii) of The Rights in Technical Data and Computer Software clause at DFARS 252.227- 7013, or subparagraph (d) of the Commercial Computer Software - Licensing at NASA FAR supplement 16-52.227-86, or their equivalent, as applicable.

## **10. *General***

### **10.1 *Assignment***

Licensee may not assign, sublicense, or transfer Licensee's rights or delegate its obligations under this Agreement without Licensor's prior written consent, which will not be unreasonably withheld. This Agreement shall be binding upon the successors and assigns of the parties to this Agreement.

### **10.2 *Entire Agreement***

This Agreement, along with the Exhibits attached and referenced in this Agreement, constitutes the final and complete understanding between the parties, and replaces and supersedes all previous oral or written agreements, understandings, or arrangements between the parties with respect to the subject matter contained in this Agreement.

### **10.3 *Waiver***

This Agreement may not be modified or amended except in a writing signed by an authorized officer of each party. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of the provisions or of the right of such party thereafter to enforce that or any other provision.

### **10.4 *Notices***

Except as otherwise provided in this Agreement, notices required to be given pursuant to this Agreement shall be effective when received, and shall be sufficient if given in writing, hand-delivered, sent by First Class Mail, return receipt requested (for all types of correspondence), postage prepaid, or sent by overnight courier service and addressed as follows:

To Licensor: 508 N. Harbor City Blvd, Melbourne, Florida 32935 Attn:

Andrew Easler

Email: hello@worktraining.com

To Licensee: \_\_\_\_\_

Attn: \_\_\_\_\_

Email: \_\_\_\_\_

### **10.5 Publicity**

Without the prior written consent of the other party, neither party shall disclose the terms and conditions of this Agreement, except disclosure may be made as is reasonably necessary to the disclosing party's bankers, attorneys, or accountants or except as may be required by law.

### **10.6 Independent Contractor**

Nothing in this Agreement shall be deemed to create an employer/employee, principal/agent, or joint venture relationship. Neither party shall have the authority to enter into any contracts on behalf of the other party.

### **10.7 Governing Law and Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

### **10.8 Severability**

In case any provision of this Agreement is held to be invalid, unenforceable, or illegal, the provision will be severed from this Agreement, and such invalidity, unenforceability, or illegality will not affect any other provisions of this Agreement.

### **10.9 Arbitration**

In the event of any dispute between the parties arising out of this Agreement, that cannot be settled by negotiation between the parties, the dispute shall be resolved by arbitration under the rules of the American Arbitration Association by an arbitrator agreed upon in writing by the parties. In the event the parties cannot agree upon the choice of an arbitrator, each party shall appoint one individual representative and the two-party representatives shall, between themselves, choose an arbitrator.

### **10.10 Attorney Fees**

In the event of any dispute between the parties arising out of this Agreement, the prevailing party shall be entitled, in addition to any other rights and remedies it may have, to recover its reasonable attorney fees and costs.

### **10.11 Effective Date**

The effective date of this Agreement shall be \_\_\_\_\_, 2022.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date written above.

#### **LICENSOR:**

EASLER EDUCATION INC.

By: \_\_\_\_\_  
Andrew Easler  
President

#### **LICENSEE:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_ 1

**EXHIBIT A  
LICENSE FEES**

DOT SUPERVISOR REASONABLE SUSPICION TRAINING (SCORM)	\$20/ license*
DOT EMPLOYEE AWARENESS TRAINING (SCORM)	\$15/ license*

\*"License" means enrollment on a per person, per course basis.

SAMPLE