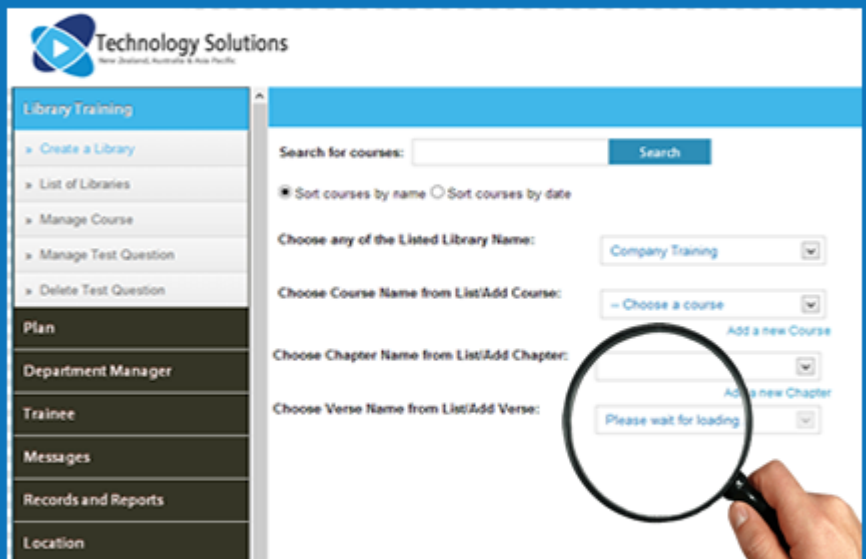


SMARTTRAINER LEGALS

Your E-Learning platform, made Easy!



The screenshot displays the SmartTrainer web interface. At the top left is the logo for Technology Solutions, with the text "New Zealand, Australia & Asia Pacific" below it. A navigation menu on the left includes "Library Training" (with sub-items: Create a Library, List of Libraries, Manage Course, Manage Test Question, Delete Test Question), "Plan", "Department Manager", "Trainee", "Messages", "Records and Reports", and "Location". The main content area features a search bar labeled "Search for courses:" with a "Search" button. Below the search bar are sorting options: "Sort courses by name" (selected) and "Sort courses by date". There are four dropdown menus for selecting course details: "Choose any of the Listed Library Name:" (set to "Company Training"), "Choose Course Name from List/Add Course:" (set to "- Choose a course"), "Choose Chapter Name from List/Add Chapter:" (set to "Add a new Chapter"), and "Choose Verse Name from List/Add Verse:" (set to "Please wait for loading"). A magnifying glass icon is overlaid on the "Please wait for loading" dropdown.

SmartTrainer is a feature rich yet easy to use
Online Training tool for your Employees

Contact: Ken Noble

ABC Limited

THE CORPORATE END USER AGREEMENT

THIS AGREEMENT made the 20 day of April

2016

PARTIES

- (1) SMART TRAINER LTD being a duly incorporated company (“the Licensor”)
- (2) [COMPANY NAME] being a duly incorporated company (“the Licensee”)

BACKGROUND

The Licensor wishes to licence its name, intellectual property and software and to provide certain services to the Licensee and the Licensee wishes to take such licence on the terms and conditions set out below.

IT IS AGREED

1. Definitions and Interpretations

“**Confidential Information**” means any information or material that is by its nature confidential and is:

- (a) agreed by the parties to be confidential; or
- (b) information a party knows or ought to know is confidential,

but does not include information which is or becomes public knowledge other than by breach of this agreement or any other confidentiality obligation and includes but is not limited to the Intellectual Property.

“**Commencement Date**” means the Commencement Date in the Schedule.

“**Intellectual Property**” means all the applicable intellectual property and know-how associated with the Product or Products supplied to the Licensee which is owned or licensed by the Licensor including the Licensor’s Product list and the suppliers of those products the Trade Name and all trademarks, patents, patent applications, drawings, discoveries, inventions, improvements, trade secrets, technical data, formulae, computer programmes, know-how, logos, registered and unregistered designs, design rights, copyright and similar intellectual property rights.

“**Licence Fee**” means, at the date of this agreement, the Licence Fee to be paid for the Product or Products supplied to the Licensee as set out in the Schedule in respect of the number of Sites specified in respect of the number of Sites specified in the Schedule.

“**Licensed Territory**” means the territory described in the Schedule .

“**Operation**” means the Licensee’s business operation including its premises and business assets and shall also include any sub-licensing of the Product or Products supplied to the Licensee

“**Products**” means all hardware and software licensed or sublicensed to the Licensee by the Licensor and/or required to be used by the Licensee under this agreement relating to the Product or Products supplied to the Licensee

“**Renewal Fee**” means the Licence Fee

“**Renewal Term**” means One (1) year for each Renewal Term

“Services” means the services provided by the Licensor in respect of the support, maintenance and training relating to the Product or Products supplied to the Licensee

“Site” means any site situated in the Licensed Territory and where the Licensee establishes and installs Product or Products supplied to the Licensee with a sub-licensee in accordance with the Operation.

“Trade Name” means “Technology Solutions Australasia Limited”.

“Term” means One (1) year

- 1.1 Reference to any of the parties in this agreement includes its successors and assigns.
- 1.2 The headings of clauses in this agreement are solely for ease of reference and this agreement shall not be construed by reference thereto.
- 1.3 In this agreement where the context so requires or admits the singular shall include the plural.
- 1.4 In the event that more than one party makes up the licensee or shareholders, then the parties’ obligations as licensee and shareholders respectively shall be joint and several.
- 1.5 All references to monies payable in this agreement are deemed to be GST exclusive.
- 1.6 All monies payable under this agreement are to be paid in the currency stated in the Schedule.

2. Licence

- 2.1 In consideration of payment of each Licence Fee the Licensor grants the Licensee a licence to use the Trade Name, operate the Products and receive the Services in respect of a relevant Site within the Licensed Territory
- 2.2 The licence under this agreement shall be exclusive to the Licensee for the purposes of its Operations and accordingly the Licensor shall not licence Products to any other business operator within the Licensed Territory.
- 2.3 The Licensee will pay the Licence Fee in respect of each Site to the Licensor on placing the order for the Products.

3. Term of the Agreement

- 3.1 The term of this agreement shall be as set out in Schedule 1 and shall begin from the Commencement Date.

4. Right of Renewal

- 4.1 If there shall be no outstanding breach by the Licensee of the terms of this agreement and if the Licensee shall have observed and performed the terms and conditions of this agreement throughout the term, then the License will, at the expiration of the Term hereof or any Renewal Term, be renewed for another Renewal Term.
- 4.2 All renewals of this agreement will be subject to the terms and conditions contained in this agreement including but not limited to clause 4.3 and 12.1.5, and

- (a) Any amendment or variation to this agreement shall be mutually agreed by both parties provided that such agreement shall include a right of renewal on the same terms and conditions as contained in this agreement; and
 - (b) The Licensee paying a Renewal Fee.
- 4.3 It is acknowledged that both parties intend to renew this agreement strictly on the basis of the terms and conditions contained herein provided that either party may, on such renewal, request an amendment or variation to this agreement if it is essential for the continuance of the agreement. In the event that any amendment or variation is disputed by either party, such dispute shall be referred to mediation and arbitration in accordance with clause 16.
- 4.4 The term of all renewed agreements shall be for the Renewal Term set forth in Schedule 1.

5. **Products**

- 5.1 The Licensee will use the Products and upgrades thereof in its operation upon the following terms:
- 5.1.1 The Licensee will have an exclusive licence to use the Products for the purposes of the Operation during the Term of this agreement.
 - 5.1.2 The Licensee shall not copy, modify or duplicate the Products nor will the Licensee sub-license, sell, part with possession or lend the Products to any other person or persons other than as permitted under this agreement or as approved in writing by the Licensor.
 - 5.1.3 The Licensee acknowledges that while the Licensor holds all legal rights to the Intellectual Property, the Licensor is not be the owner of the Intellectual Property in the Products. The Licensee will, if required by the owner of the Intellectual Property execute a software agreement in favour of any third party licensor of any Product or Products on its then current form of software agreement.
 - 5.1.4 The Licensee has no rights of ownership to the Intellectual Property and agrees that no such rights of ownership shall pass to the Licensee.
- 5.2 The Licensor:
- 5.2.1 Warrants that it holds all legal rights to the Intellectual Property to enable the Intellectual Property to be lawfully licensed to the Licensee (and any sub-licensee of the Licensee as the case may be) under this Agreement and shall protect such Intellectual Property throughout the term of this Agreement;
 - 5.2.2 Will use all reasonable endeavours in association with the any third party licensor of any Product or Products to conceive and develop new and improved methods of conducting the Products and the Operations in accordance with the Intellectual Property and any other additions or modifications to the Intellectual Property which it and the Licensee may consider desirable;
 - 5.2.3 Will make such improvements, additions or modifications to the Intellectual Property available to the Licensee at the earliest convenient opportunity after they have in the opinion of the Licensor been fully developed;
 - 5.2.4 Introduce into the Products or related manuals, any improvements notified by the Licensee to the Licensor in accordance with clause 5.3.1 which in its sole discretion it deems appropriate; and
- 5.3 The Licensee will:

- 5.3.1 Notify the Licensor of any improvements in the method of operation which it may consider would assist in the development of the Intellectual Property which the Licensor or any third party licensor of any Product or Products (as the case may be) will evaluate and may incorporate in the Intellectual Property and/or the related manuals without payment to the Licensee.
- 5.3.2 Not introduce any improvement, addition, modification or innovation to the Intellectual Property and the conduct of the Operation, or of the Intellectual Property without the written consent of the Licensor.

6. Licensee to be Independent

- 6.1 The Licensee will carry on the operation as an entity independent of the Licensor and will not pledge the credit of the Licensor, incur liability in the name of or on behalf of the Licensor or represent itself as being the Licensor or an agent of the Licensor.
- 6.2 The Licensor shall protect the Trade Name and its rights to the Intellectual Property at all times.

7. Continuing Obligations of the Licensor

- 7.1 Throughout the Term, the Licensor (in addition to its other obligations under this agreement) will supply the Services to a high standard including:
 - (a) Allowing reasonable access by the Licensee to officers of the Licensor for consultation on the conduct of the Operation with a view to maintaining the Operation of the Products to a high standard;
 - (b) Providing maintenance of the Products to the Licensee on a regular basis or as requested by the Licensee;
 - (c) Providing the Licensee with advice, know-how and guidance in such areas and methods of the Operation to be employed in or about the Products.
 - (d) Arranging or providing appropriate training for the Licensee pursuant to Clause 9.
 - (e) Will supply and maintain such hardware as may be necessary to ensure that the Licensee may use the software component of any Product for the purpose for which it is supplied.

8. Licensee's Continuing Obligations

- 8.1 Throughout the term, the Licensee (in addition to its other obligations under this agreement) will:
 - 8.1.1 Use its best endeavours to operate the Products to promote and develop the Operation, and promote the Services to the benefit of the Licensee and the Licensor.
 - 8.1.2 Use and operate the Products and carry on the Operation only in strict accordance with this agreement and the related manuals.
 - 8.1.3 Take all reasonable steps to ensure that the goodwill of the Licensor in the Products are maintained and enhanced and not brought into disrepute.

- 8.1.4 Take all reasonable steps to maintain high standards in all matters connected with the Operation including high standards of service, presentation, ethics, cleanliness, tidiness, product and service quality and range, facilities and general business practice, and comply with all reasonable requirements of the Licensor in respect thereof and not do anything, which does not conform to those high standards.
- 8.1.5 Employ all staff using the Licensee's standard employment contract containing confidentiality and restraint of trade provisions.
- 8.1.6 Maintain an adequate financial structure including working capital and use its best endeavours to promptly discharge all its financial and contractual obligations.
- 8.1.7 Use its best endeavours to ensure that any hardware supplied by the Licensor pursuant to this agreement is kept in good and operational condition and will not permit anyone to install any software on the hardware or to use the hardware for any purpose other than the purpose for which it was provided by the Licensor.
- 8.1.8 As soon it becomes aware of any breach of the obligations in Clause 8.1.7, take immediate action to prevent the breach from continuing or occurring again and will reimburse the Licensor for any costs incurred by it in undertaking any remedial work arising from any such breach.
- 8.1.9 not to purchase any of the product from any supplier named by the Licensor as a supplier of the products for a period of 12 months from the date of the agreement.

9. Termination

- 9.1 The Licensor shall have the right to terminate this agreement forthwith by written notice to the Licensee if the Licensee fails to remedy any default of the agreement within 14 days of receiving written notice from the Licensor detailing that default;
- 9.2 The Licensee shall have the right to terminate this agreement forthwith by written notice to the Licensor if the Licensor fails to remedy any default of the agreement within 14 days of receiving written notice from the Licensee detailing the default.

10. Consequences of Termination

- 10.1 Upon the termination of this agreement by the Licensor due to an unremedied default by the Licensee under this agreement, the Licensee will:
 - 10.1.1 Immediately discontinue the use of the Trade Name, the Product and Intellectual Property signs and manuals and other display or advertising matter indicative of the Licensor or of any association with the Licensor or of the Operation, Services or products of the Licensor.
 - 10.1.2 Pay to the Licensor (without any deduction or right of set-off) all sums of money which may be due or owing from the Licensee to the Licensor.
 - 10.1.3 Cease to use all Intellectual Property whereof is vested in the Licensor or where the continued use thereof would in any way infringe the Intellectual Property of the Licensor.

11. Licensee's Acknowledgements

- 11.1 The Licensee acknowledges to and agrees with the Licensor that:

11.1.1 This agreement contains the entire agreement between the parties and no representations, warranties, inducements or promises made by the Licensor and no other agreements whether oral or otherwise not embodied herein shall add to or vary this agreement or be of any force or effect.

11.1.2 It has been notified that if there are any representations, warranties, inducements promises which it considers have been made to it which have induced it to enter into this agreement or which it has relied on, it is obliged to submit a written statement thereof to the Licensor prior to the execution hereof so that an agreed form thereof may be annexed to and form part of this agreement.

12. Legal Relationship

12.1 The parties are Licensor and Licensee only and no relationship of partnership, joint venture or of employer and employee shall be implied.

13. Mediation and Arbitration

13.1 If a dispute arises out of or in connection with this licence, the parties using the procedure set out in this clause agree to make a genuine effort to resolve the dispute without resorting to litigation. A party may initiate the dispute resolution procedures by giving written notice to the other party detailing the dispute and giving the other party seven days to remedy the default.

13.2 In the event that the default is not remedied or the dispute resolved within 14 days of the notice, each party shall appoint a representative and those representatives shall meet within a further 14 days of the notice and negotiate a resolution to the dispute.

13.3 In the event that the dispute is not resolved by negotiation, the parties agree to mediate any dispute in terms of the LEADR New Zealand Incorporated standard mediation agreement. The mediation will be conducted by a mediator and at a fee agreed by the parties, failing agreement between the parties, the mediator will be selected, and the mediator's fee will be determined, by the Chair for the time being of LEADR New Zealand Incorporated.

13.4 In the event that any dispute arising out of or in connection with this agreement cannot be resolved under the dispute resolution procedure then the matter shall be referred to arbitration in accordance with the Arbitration Act 1996. The arbitration shall be conducted by one arbitrator, if the parties in dispute can agree upon one or, failing agreement, then an arbitrator to be appointed by the President for the time being of the Auckland District Law Society or his or her nominee whose arbitration shall be conducted in Auckland.

14. Confidentiality

14.1 Each party must not, either during the term of this agreement or for a period of one (1) year after termination:

14.1.1 Disclose to any person any Confidential Information;

14.1.2 Sell or provide access to any end-user any Products;

14.1.3 Contact or attempt to contact any manufacturer, supplier or developer of any of the Products;

14.1.4 Enter into any correspondence or dialogue with any such manufacturer, supplier or developer without first disclosing full details of the product to be sold or supplied or the nature of the contact, correspondence or dialogue and may proceed only with the written consent of the Licensor;

and other than as permitted herein must hold the Confidential Information in strict confidence and not use the Confidential Information for purposes other than this agreement.

14.2 A party may disclose any Confidential Information:

14.2.1 In enforcing this agreement or in a proceeding arising out of or in connection with this agreement or to the extent that disclosure is regarded by the disclosing party as necessary to protect its interests;

14.2.2 If required under a binding order of a Governmental Agency or under a procedure for discovery in any proceedings;

14.2.3 In accordance with the practice of responsible bankers or similar financial institutions;

14.2.4 As required or permitted by this agreement;

14.2.5 To its legal advisers and its consultants; or

14.2.6 With the prior written consent of the other party.

14.3 Neither party will make any public announcement statement or release in relation to:

14.3.1 This agreement or dealings with the other party to this agreement; or

14.3.2 Any information from which matters referred to in paragraph (a) may be inferred, unless the other party consents in writing.

14.4 This Clause survives the termination of this Agreement.

15. Notices

15.1 For the purposes of this agreement the address of the parties for communication and notices (unless subsequently changed by written notice to the other) shall be the addresses specified in Schedule 1. Any notice or other communication shall be in writing and may be served by being delivered to the said address, or by being sent by facsimile transmission or prepaid mail and shall be deemed served, given or received when delivered if delivered personally, the day after being despatched by prepaid mail, or on the same business day if sent by facsimile.

16. Sub-licensing

16.1 Each party may not assign, mortgage or charge the licence granted under this agreement, except with the prior written consent of the other party provided that the Licensee may sub-licence its rights to the Products to any business operator within the Licensed Territory. Any change in the effective management or control of a party or any parent company of a party, through whatever means, will be deemed to be an assignment of this Agreement requiring the prior written consent of the other party.

17. Jurisdiction

17.1 This Agreement will be deemed to have been executed and delivered in New Zealand and all questions arising out of or under this agreement will be governed by the laws of New Zealand. In case of any litigation arising out of any dispute between the parties concerning interpretation or the compliance with this agreement, the parties hereby expressly declare that they accept the jurisdiction of the New Zealand courts.

18. Amendment

18.1 No amendment or variation of this agreement is valid or binding on a party unless made in writing and executed by both the Licensor and the Licensee.

19. **Severability of Provisions**

19.1 If any term of this agreement is illegal, invalid or unenforceable for any reason whatsoever including, but without limitation, legislation or other provisions having the force of law or any decision of any court or other body or authority having jurisdiction, such term will be deemed to be deleted from this agreement on condition that if either party considers that any such deletion substantially affects or alters the commercial basis of this agreement it may give notice in writing to the other to terminate this agreement immediately in which event clause 10 will apply.

20. **No Waiver**

20.1 No reasonable failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

21. **Counterparts**

21.1 This agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

22. **Costs and Stamp Duty**

22.1 Each party must bear its own costs arising out of the negotiation, preparation and execution of this agreement (such costs to include legal fees).

23. **Further Assurances**

23.1 Each party agrees:

23.1.1 That they are authorised to enter into this agreement and that the performance of their obligations hereunder is not in conflict with any other agreement; and

23.1.2 To do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this agreement and the transactions contemplated by it.

Schedule 1

Products – Smart Trainer Fully Loaded

Commencement Date 17th June 2014

Number of sites – unlimited to

Territory –NZ

Licence Fee (Includes Maintenance & Support) -

Address of Licensee: NZ

IN WITNESS WHEREOF these presents have been executed the day and year first hereinbefore written.

SIGNED on behalf of (SMART TRAINER LTD)

Ken Noble.....

Director

.....

Director

SIGNED on behalf of

Director

.....

Director

DATED 17 June

2014

BETWEEN **SMART TRAINER LTD**
("the Licensor")

AND COMPANY NAME
("the Licensee")

LICENCE AGREEMENT

WOOD RUCK MANUKAU
SOLICITORS
MANUKAU CITY