

7 STEPS LMS, INC – USER AGREEMENT FOR CLOUD-BASED 7 STEPS APPPLICATION

Effective Date: _____

The following “User License Agreement” governs your use of the software and services provided by 7 Steps LMS, Inc. (“COMPANY”) (and its subsidiaries). This is a legal agreement between you and COMPANY and incorporates the Privacy Policy located in the Terms and Conditions section of the 7stepslms.com website.

YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BEFORE USING THIS WEBSITE OR SERVICE. BY CLICKING THE “ACCEPT” BUTTON, YOU (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT YOU ARE 18 YEARS OF AGE OR OLDER AND ARE ELIGIBLE TO ENTER INTO A LEGALLY BINDING AGREEMENT; AND (C) ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT USE THE WEBSITE OR THE SERVICE.

1. Definitions

- a. “Administrator” shall mean a Subscriber (as defined in Section 1(i)) with authority to designate additional Authorized Users and/or Administrators.
- b. “Agreement” shall mean this entire User License Agreement and incorporates by reference the Privacy Policy located in the Terms and Conditions section of the 7Stepslms.com website.
- c. “Authorized User” shall mean an individual subscriber or the partners, members, employees, temporary employees, clients, client employees, and independent contractors of an organization with a subscription to the Service who have been added to the account as users.
- d. “Confidential Information” shall mean the Content (as defined in Section 1(e)) and any information, technical data, or know-how considered proprietary or confidential by either party to this Agreement including, but not limited to, either party’s research, services, inventions, processes, specifications, designs, drawings, diagrams, concepts, marketing, techniques, documentation, source code, customer information, personally identifiable information, pricing information, procedures, menu concepts, business and marketing plans or strategies, financial information, and business opportunities disclosed by either party before or after the Effective Date of this Agreement, either directly or indirectly in any form whatsoever, including in writing, orally, machine readable form or through access to either party’s premises.

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- e. “Content” shall mean any information you upload or post to the Service and any information provided by you to COMPANY in connection with the Service, including, without limitation, information about your Authorized Users or Registered Clients, as defined in Section 1(g).
- f. “Originating Subscriber” shall mean the Subscriber who initiated the Services offered by COMPANY and is assumed by COMPANY to have the sole authority to administer the subscription.
- g. “Registered Client” means an individual who has been invited to use the client-facing features of the Service in a limited capacity as a client of an Authorized User.
- h. “Service” shall mean any software or services provided by COMPANY.
- i. “Subscriber” shall refer to the purchaser of the Services provided by COMPANY and shall also include any present or former agent, representative, independent contractor, employee, servant, attorney and any entity or person who had authority to act on your behalf.
- j. “Security Emergency” shall mean a violation by Subscriber of this Agreement that (a) could disrupt (i) COMPANY’S provision of the Service; (ii) the business of other subscribers to the Service; or (iii) the network or servers used to provide the Service; or (b) provides unauthorized third party access to the Service.

2. Limited License & Use of the Service

- 2.1 Subscriber is granted a non-exclusive, non-transferable, limited license to access and use the Service.
- 2.2 Authorized Users agree not to reproduce, duplicate, copy, sell, resell or exploit access to the Service, use of the Service, or any portion of the Service, including, but not limited to the HTML, Cascading Style Sheet (“CSS”) or any visual design elements without the express written permission from COMPANY.
- 2.3 Authorized Users agree not to modify, reverse engineer, adapt or otherwise tamper with the Service or modify another website so as to falsely imply that it is associated with the Service, COMPANY, or any other software or service provided by COMPANY.
- 2.4 Authorized Users agree that it is prohibited to share the view or function of the Service with others that are not authorized via access or shared screen shots, and any losses as a result are the liability of the subscriber and user.
- 2.5 Authorized Users agree that the Service is not to be used to create business relationships outside of the Service that were not previously in existence. (i.e., suppliers can’t log in and see client names and begin calling on those clients directly to solicit the business). Any financial damages to

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COMPANY, related entities, and its shareholders, related to losses associated with such activity will be the liability of the breaching party.

- 2.6 Authorized Users agree that they will not knowingly use the Service in any manner which may infringe copyright or intellectual property rights or in any manner which is unlawful, offensive, threatening, libelous, defamatory, pornographic, obscene or in violation of the terms of this Agreement.
- 2.7 Authorized Users agree that they will not knowingly use the Service to upload, post, host, or transmit unsolicited bulk email “Spam”, short message service “SMS” messages, viruses, self-replicating computer programs “Worms” or any code of a destructive or malicious nature.
- 2.8 Except for the non-exclusive license granted pursuant to this Agreement, Subscriber acknowledges and agrees that all ownership, license, intellectual property and other rights and interests in and to the Service shall remain solely with COMPANY.
- 2.9 Authorized Users who configure the Service to share or make available certain Content to the public, are deemed to acknowledge and agree that everyone will have access to the Content (“Public Content”). COMPANY reserves the right, at any time, in its sole discretion, to take any action deemed necessary with respect to Public Content that violates the terms of this Agreement, including, but not limited to, removal of such Public Content.
- 2.10 COMPANY reserves the right at any time, and from time to time, to modify or discontinue, temporarily or permanently, any feature associated with the Service, with or without notice. Continued use of the Service following any modification constitutes Subscriber’s acceptance of the modification.
- 2.11 COMPANY reserves the right to temporarily suspend access to the Service for operational purposes, including, but not limited to, maintenance, repairs or installation of upgrades, and will endeavor to provide no less than two business days’ notice prior to any such suspension. Such notice shall be provided to you in advance by way of notification within the Service, email or other notification method deemed appropriate by COMPANY. Further, COMPANY shall endeavor to confine planned operational suspensions with a best effort to minimize disruption to the Subscriber, but reserves the ability to temporarily suspend operations without notice at any time to complete necessary repairs. In the event of a temporary suspension, COMPANY will use the same notification methods listed in this section to provide updates as to the nature and duration of any temporary suspension.
- 2.12 Subscriber grants to COMPANY a non-exclusive, royalty free right during Subscriber’s use of the Service, to use the Confidential Information for the sole purpose of performing COMPANY’S obligations under the Agreement in accordance with the terms of the Agreement. Such rights shall include permission for COMPANY to generate and publish aggregate, anonymized reports on system usage and Content trends and type, provided they do not conflict with Section 4.1.

3. Access to the Service

- 3.1 Subscriber is only permitted to access and use the Service if he/she is an Authorized User or a Registered Client. Authorized Users are required to provide their full legal name, a valid email address, and any other information reasonably requested by the Service.

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- 3.2 Each Authorized User will be provided with a unique identifier to access and use the Service (“Username”). The Username shall only be used by the Authorized User to whom it is assigned, and shall not be shared with, or used by any other person, including other Authorized Users.
- 3.3 The initial Administrator shall be the Originating Subscriber with authority to administer the subscription and designate additional Authorized Users and/or Administrators. Each subscription may designate multiple Authorized Users as Administrator. Any Administrator shall be deemed to have the authority to manage the subscription and any Authorized Users. The Administrator will deactivate an active Username if the Administrator wishes to terminate access to the Service for any Authorized User.
- 3.4 Administrators are responsible for all use of the Service by Authorized Users on the list of active Authorized Users associated with their subscription to the Service.
- 3.5 All content entered into the Service becomes the sole ownership of Licensor and Licensor is under no obligation to provide access or return the content.
- 3.6 All access to and use of the Service via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of the Service is strictly prohibited.
- 3.7 Authorized Users are permitted to access and use the Service using an Application Program Interface (“API”) subject to the following conditions:
 - a. any use of the Service using an API, including use of an API through a third-party product that accesses and uses the Service, is governed by these Terms of Service;
 - b. COMPANY shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if COMPANY has been advised of the possibility of such damages), resulting from any use of an API or third-party products that access and use the Service via an API;
 - c. Excessive use of the Service using an API may result in temporary or permanent suspension of access to the Service via an API. COMPANY, in its sole discretion, will determine excessive use of the Service via an API, and will make a reasonable attempt to warn the Authorized User prior to suspension; and
 - d. COMPANY reserves the right at any time to modify or discontinue, temporarily or permanently, access and use of the Service via an API, with or without notice.

4. Confidentiality

- 4.1 Each party agrees to treat all Confidential Information as confidential and not to use or disclose such Confidential Information except as necessary to perform its obligations under this Agreement.
- 4.2 COMPANY and any third party vendors and hosting partners it utilizes to provide the Service shall hold Content in strict confidence and shall not use or disclose Content except (a) as required to perform their obligations under this Agreement; (b) in compliance with Section 5 of this Agreement, or (c) as otherwise authorized by you in writing.

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5. Legal Compliance

- 5.1 COMPANY maintains that its primary duty is to protect the Content to the extent the law allows. COMPANY reserves the right to provide the Confidential Information to third parties as required and permitted by law (such as in response to a subpoena or court order), and to cooperate with law enforcement authorities in the investigation of any criminal or civil matter.

If COMPANY is required by law to make any disclosure of the Confidential Information that is prohibited or otherwise constrained by this Agreement, then COMPANY will provide Subscriber with prompt written notice (to the extent permitted by law) prior to such disclosure so that the Subscriber may seek a protective order or other appropriate relief. Subject to the foregoing sentence, COMPANY may furnish that portion (and only that portion) of the Confidential Information that it is legally compelled or otherwise legally required to disclose.

6. Term and Termination.

- 6.1 This Agreement shall be in effect for a limited period of time (the "Term") which shall commence on the date you click "ACCEPT" to accept this Agreement ("Effective Date") and end immediately and automatically upon any Termination of this Agreement.
- 6.2 COMPANY in its sole discretion has the right to suspend or discontinue providing the Service to any Subscriber without notice, for actions that are (a) in material violation of this Agreement and (b) create a Security Emergency.
- 6.3 Subscriber may terminate this Agreement at any time without notice by permanently ceasing all access and use of the Service.
- 6.4 COMPANY may terminate this Agreement at any time with five days' notice to Subscriber and/or Authorized Users.
- 6.5 Upon any termination of this Agreement:
- any and all of rights to access and use the Service shall immediately and automatically terminate without notice; and
 - Subscriber and Authorized Users shall immediately and permanently cease all access and use of the Service.

7. Limitation of Liability

- 7.1 Except in the case of a violation by COMPANY of its obligations under Section 4 above ("Confidentiality") and except as provided in Section 9.2 below ("Indemnification"), COMPANY shall not be liable for and Subscriber waives the right to claim any loss, injury, claim, liability or damage of any kind resulting in any way from the Services provided to Subscriber by COMPANY.
- 7.2 SUBSCRIBER AGREES THAT THE LIABILITY OF COMPANY ARISING OUT OF ANY CLAIM IN ANY WAY CONNECTED WITH THE SERVICE WILL NOT EXCEED THE TOTAL AMOUNT YOU HAVE PAID FOR THE SERVICE PURSUANT TO THE AGREEMENT WITHIN THE TWO MONTH PERIOD BEFORE THE DATE THE CLAIM AROSE. SUBSCRIBER FURTHER AGREES THAT COMPANY IS NOT AND WILL NOT BE LIABLE FOR

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ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION, ATTORNEY FEES) RELATING TO THIS AGREEMENT. THESE DISCLAIMERS APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, WHETHER THOSE DAMAGES ARE FORESEEABLE AND WHETHER COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. THESE DISCLAIMERS ARE NOT APPLICABLE TO THE INDEMNIFICATION OBLIGATION SET FORTH IN SECTION 9.2. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF DAMAGES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY COMPANY TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE FROM AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT.

7.3 Subscriber will solely be responsible for any damage and/or loss of Content contained in Subscriber's technology which occurs as a result of Subscriber's electronic equipment and/or Subscriber's computer system.

8. Disclaimer of Warranties

8.1 COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS WITH RESPECT TO ANY SERVICES PROVIDED BY COMPANY. NOTHING IN THIS SECTION 8.1 SHALL MODIFY COMPANY'S OBLIGATION TO INDEMNIFY SUBSCRIBER AS REQUIRED BY SECTION 9.2(A) OF THIS AGREEMENT ("INDEMNIFICATION").

8.2 COMPANY makes no warranty that its services when provided to Subscriber in digital or electronic format will be compatible with Subscriber computer and/or other equipment, or that these Services will be secure or error free. Nor does COMPANY make any warranty as to any results that may be obtained from the use of the Service. Nothing in this Section 8.2 shall modify COMPANY'S obligations under Section 4 above ("Confidentiality") or COMPANY'S obligation to indemnify you as required by Section 9.2(b) of this Agreement ("Indemnification").

8.3 COMPANY hereby disclaims all warranties of any kind related to Subscriber's hardware or software beyond the warranties provided by the manufacturer of Subscriber's hardware or software.

9. Indemnification

9.1 Subscriber hereby agrees to indemnify and hold harmless COMPANY from and against any claim, action, proceeding, loss, liability, judgment, obligation, penalty, damage, cost or expense, including attorneys' fees, which arise from or relate to the following:

- A. Authorized Users' breach of any obligation stated in this Agreement,
- B. Authorized Users' negligent acts or omissions; and
- C. Authorized Users' misinformation which leads to a lawsuit.

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COMPANY will provide prompt notice to Subscriber of any indemnifiable event or loss. Subscriber will undertake, at Subscriber's own cost, the defense of any claim, suit or proceeding with counsel reasonably acceptable to COMPANY. COMPANY reserves the right to participate in the defense of the claim, suit, or proceeding, at COMPANY'S expense, with counsel of COMPANY'S choosing.

9.2 COMPANY shall defend, indemnify and hold Subscriber harmless against any loss, damage or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Subscriber by a third party

a. alleging that the Service, or use of the Service as contemplated hereunder, infringes a copyright, a U.S. patent issued as of the date of final execution of this Agreement, or a trademark of a third party or involves the misappropriation of any trade secret of a third party; provided, however, that Subscriber:

(a) promptly gives written notice of the Claim to COMPANY (provided, however, that the failure to so notify shall not relieve COMPANY of its indemnification obligations unless COMPANY can show that it was materially prejudiced by such delay and then only to the extent of such prejudice); (b) gives COMPANY sole control of the defense and settlement of the Claim (provided that COMPANY may not settle any Claim unless it unconditionally releases Subscriber of all liability); and (c) provides to COMPANY, at COMPANY'S cost, all reasonable assistance. COMPANY shall not be required to indemnify Subscriber in the event of: (x) modification of the Service by Subscriber in conflict with Subscriber's obligations or as a result of any prohibited activity as set forth herein to the extent that the infringement or misappropriation would not have occurred but for such modification; (y) use of the Service in combination with any other product or service not provided by COMPANY to the extent that the infringement or misappropriation would not have occurred but for such use; or (z) use of the Service in a manner not otherwise contemplated by this Agreement to the extent that the infringement or misappropriation would not have occurred but for such use; or

b. arising out of or related to a violation by COMPANY of its obligations under Section 4 above ("Confidentiality").

10. Miscellaneous

10.1 Technical support and training are available to Authorized Users with active subscriptions, and is available by emailing support@7stepslms.com or by accessing the "Chat" support option. Currently, support is only available in English.

10.2 Subscriber acknowledges and agrees that COMPANY may use third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Service.

10.3 COMPANY may provide the ability to integrate the Service with third party products and services that Subscriber may use at Subscriber's option and risk. Access to and use of any third-party products and services are subject to the separate terms and conditions required by the providers of the third-party products and services. Subscriber agrees that COMPANY has no liability arising from Subscriber's use of any integrations or arising from the third-party products and services. COMPANY can modify or cancel the integrations at

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any time without notice. For purposes of calculating downtime pursuant to Exhibit A, calculation does not include the unavailability of any integration or any third-party products or services.

- 10.4 Subscriber acknowledges the risk that information and the Content stored and transmitted electronically through the Service may be intercepted by third parties. Subscriber agrees to accept that risk and will not hold COMPANY liable for any loss, damage, or injury resulting from the interception of information. The Content is stored securely and encrypted. Only COMPANY, with strict business reasons, may access and transfer the Content and only to provide Subscriber with the Service. COMPANY will make reasonable efforts to provide notice to Subscriber prior to such access and transfer. COMPANY'S actions will comply with its obligations under Sections 4 and 5 of this Agreement.
- 10.5 The failure of either party to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- 10.6 This Agreement constitutes the entire agreement between Authorized Users and COMPANY and governs Authorized Users use of the Service, superseding any prior agreements between Authorized Users and COMPANY (including, but not limited to, any prior versions of this agreement).
- 10.7 COMPANY reserves the right to amend this Agreement. In the event of material changes to the Agreement, COMPANY will notify Subscribers, by email, or by other reasonable means of these changes prior to their enactment. Continued use of the Service by the Subscriber after reasonable notice will be considered acceptance of any new terms.
- 10.8 Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets provided the assignee has agreed to be bound by all of the terms of this Agreement. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this Section shall be void and of no effect.
- 10.9 Governing Law and Venue. This Agreement and your relationship with COMPANY shall be governed exclusively by, and will be enforced, construed, and interpreted exclusively in accordance with, the laws applicable in the State of Florida and shall be considered to have been made and accepted in the State of Florida, without regard to its conflict of law provisions. All disputes under this Agreement will be resolved by the courts of Hillsborough County, Florida, and Subscribers consent to the jurisdiction of and venue in such courts and waive any objection as to inconvenient forum. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and legal fees.
- 10.10 Returns Policy
A subscriber can cancel the service within the first 90 days of usage. COMPANY will disconnect and return the **purchase** fee however COMPANY cannot return the fees already billed and paid to third party providers for storage, backup, disaster recovery and usage.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate by their duly authorized corporate officers as of the day and year first above written.

Licensee:

By:

Name: _____
[Signer's Name]

Title: [Signer's Title]

Licensor:

7 Steps LMS, Inc.

By:

Name: _____
Leslie C. Cowie

Title: Chief Executive Officer