



# End User License Agreement

(Version: 1.2)

## Introduction

This end-user license agreement regulates how you can use our learning media. This license is subject to conditions and you will be liable for breach of this licence if you use our product contrary to these conditions. You give us the right to audit your use of our product which may include monitoring social media and other websites for the use of our product. If we find through an audit or in any other way that you have breached this license, then you will be liable to pay us damages and penalties specified in this licence.

## Acceptance

This End User Licence Agreement (**EULA**) regulates the use of our learning media (including books, applications or websites) including all upgrades and enhancements (**learning media**) by the user. By using or reading the learning media or accessing it through a website or by exercising the rights granted to you in this EULA, you accept and agree to be bound by the terms of this EULA.

## Parties

This agreement is between you, the individual or organisation that uses our product, and us, the owner of the educational product. We are EDGE Learning Media (Pty) Ltd t/a EDGE Education (2015/332511/07).

## Changes

We may change the terms of this EULA at any time. We will notify you of any changes by placing a notice in a prominent place on our website or in the products, or by sending you an email detailing the changes that we have made and indicating the date that they were last updated. If you do not agree with the changes, then you must stop using the products. If you continue to use the them following notification of a change to the terms, the changed terms will apply to you and you will be deemed to have accepted those updated terms.

## Our intellectual property rights

We own copyright and other intellectual property rights in our products. Our learning media belongs to us and not to you.

## Grant of license

If you agree to the terms of this agreement, then we grant you this license to use our products subject to the license conditions set out below. You will then have the right to use the product subject to the conditions. But, you may not use our product as if you own any rights in it. We do not grant you any license to use our product if you do not agree to the terms of this agreement.

## Duration of license

This license starts to apply when you accept it and continues to apply until it terminates.

## License conditions

**Non-exclusive.** Your right to use our product is non-exclusive. We may give anyone else the same or any other right to use our product.

**Non-assignable.** Your right to use our product is non-assignable. You may not transfer the right to anyone else.

**Business purposes.** Your right to use our product is only for your personal purposes which does not extend to third-parties. You may not use the product for any other purposes including for any form of commercial purpose or enterprise. You may not indicate that we are endorsing your use for a purpose other than a personal purpose without our explicit consent.

**Duration.** Your right to use our product is only for the duration of this agreement. You may not use the product before or after the duration of this agreement.

**License fees.** Your right to use our product may depend on payment of the licence fees related to that licence. You will not have the right to use our product if the customer responsible for paying the associated licence fees (who may or may not be you) has not paid them.

## Breach of license

You will be in breach of the license to use our product if you use it contrary to the conditions set out above.

## Self-audit

We may call upon you in writing to check yourself whether you have breached this license to use our product. If we do, you must reply in writing by the due date we specified in the written email communication to you. Your reply must contain sufficient information to allow us to assess whether you are complying with our product license conditions or not.

## Outside-audits

**Right to audit.** You give us the right to audit you to check whether you have breached this license to use our product. This includes the rights to:

- access your premises;
- make copies of data on your equipment; interview you; or
- monitor your use of our product.

**Notice of audit.** We may exercise our right to audit you:

- on reasonable written notice to you; or
- without any notice to you if we have reason to believe that you have breached the conditions of this license.

**Appointment to audit.** We may appoint any third party to carry out our right to audit you on our behalf. This includes the BSA Business Software Alliance, Inc (www.bsa.org).

**Cooperation with audit.** You will cooperate with us or any third party that we appoint to carry out our right to audit you. This includes:

- replying to any correspondence promptly;
- not trying to hide the fact that you have not complied with the conditions in licences to use our product; and
- quickly and accurately complying with all audit requirements we communicate to you.

## Feedback

**Introduction.** We value your feedback about our product. It helps us improve it for you and our other users. But, please ensure that your feedback does not contain any unsolicited ideas. The purpose of this restriction is to avoid potential misunderstandings or disputes if our product incorporates an idea similar to an unsolicited idea that you submitted to us in your feedback.

**Definitions.** In this clause:

- **feedback** means any comments or suggestions you send us or post on a website that we control related to our product; and
- **unsolicited ideas** means any original intellectual property related to our product or new goods or services that we have not asked you for in writing.

**No obligation to you.** We are not obliged to compensate or credit you for your feedback in any way unless we have a written agreement with you to do so.

**Your obligation to us.** When you submit your feedback to us, you:

- grant to us a perpetual, non-exclusive, royalty free licence to use, reproduce and, modify your feedback for any purpose related to our goods or services;
- agree to deliver all documents and perform all actions necessary to ensure that our rights to use, reproduce, and modify your feedback are effective and enforceable; and
- give up any claim that our use, reproduction, or modification of your feedback violates any of your rights, including your intellectual property rights or your moral rights (the rights not to have your work distorted and to be credited for your work).

**Submission.** You can submit any feedback to us by email to [info@edgeeducation.com](mailto:info@edgeeducation.com) or through any of our other feedback channels.

## Intellectual property

**Retention of rights.** We have created, acquired or otherwise obtained rights in our technology, products and despite anything contained in the agreement, we will own all right, title, and interest in our technology and products.

**Use of our technology.** If we utilise any of our technology in connection with our performance under an order, our technology will remain our property and you will not acquire any right or interest in it.

**Trademarks.** Our logo and sub-logos, marks, and trade names are our trademarks and no person may use them without permission. Any other trademark or trade name that may appear on our marketing material is the property of its respective owner.

**Restrictions.** Except as expressly permitted under the agreement, the services may not be:

- modified, distributed, or used to make derivative works;
- rented, leased, loaned, sold or assigned;
- decompiled, reverse engineered, or copied; or
- reproduced, transferred, or distributed in any form, either whole or in party, including on social media platforms or websites

**Prosecution.** All violations of proprietary rights or the agreement will be prosecuted to the fullest extent permissible under applicable law.

## Warranties and disclaimer

**No warranties.** While we do our best to make sure that our product is error free, we make no warranties in relation to our product other than those imposed by the relevant consumer law, and then only if you are a consumer in terms of that law.

**Disclaimer.** You use our product at your sole responsibility and risk. We provide the product on an “as is” and “as available” basis. To the extent allowed by law, we expressly disclaim all representations, warranties, or conditions of any kind, whether express or implied.

**Exclusion of liability.** Despite any warranty we give, we will not be liable regards any defect arising from negligence, failure to follow our instructions (whether oral or in writing) or misuse.

## Limitation of liability

**Direct damages limited.** To the extent permitted by applicable law, regardless of the form (whether in contract, delict or any other legal theory) in which any legal action may be brought, our maximum liability to a you for direct damages for anything giving rise to any legal action will be an amount equal to the total fees already paid by you to us for the product related to the claim. The

aggregate amounts for all claims will not be greater than the maximum amount.

**Indirect damages excluded.** To the extent permitted by applicable law, in no event will we (or our personnel) be liable for any indirect, incidental, special or consequential damages or losses (whether foreseeable or unforeseeable) of any kind (including loss of profits, loss of goodwill, damages relating to lost or damaged data or product, loss of use, damages relating to downtime or costs of substitute products) arising from the agreement.

## Termination by us

We can terminate this agreement, or discontinue providing access to the products at any time for any reason without any prior notification to you and without any liability to you

## Termination for breach

**Right to terminate.** If you breach this license to use our product, we may immediately terminate it without notice to you.

**Damages.** If you breach this license to use our product, we may claim damages from you equal to the licensing fees you would have paid to us had you paid us for a license to use our product in the way that you did.

**Penalties.** If you breach this license to use our product, you will pay us penalties equivalent to the license fees a customer would have paid us for the period during which you were in breach.

## Force majeure

**Parties not liable.** No party will be responsible for any breach of this agreement caused by circumstances beyond its control, including flood, fire, earthquake, war, tempest, hurricane, industrial action, government restrictions, or acts of God.

**Party affected to notify other party.** If there is an event of force majeure, the party affected will tell the other immediately, and they will meet within seven days to negotiate other ways to carry out any affected responsibilities under this agreement. The parties will continue to comply with the responsibilities that are not affected by the circumstances.

**Right to cancel.** If a party cannot fulfil a material (significant) part of its responsibilities under this agreement for more than 60 days because of force majeure, the other party may cancel this agreement by written notice.

## Resolving disputes

There will be a dispute about or from this agreement if a party writes to the other about it and asks for it to be resolved under this clause. The parties must refer any dispute to be resolved by arbitration. The parties must refer the dispute within 15 business days to arbitration (including any appeal against the arbitrator's decision) under Arbitration Foundation of Southern Africa's (AFSA) latest rules for expedited arbitrations. The arbitration will be held in English in Cape Town. The parties will agree and appoint one arbitrator. If the parties cannot agree on the arbitrator within 10 business days after the referral, the Secretariat of AFSA will appoint the arbitrator.

## General

**Entire agreement.** The agreement is the entire agreement between the parties on the subject.

**Waiver (giving up of rights).** Any favour we may allow you will not affect or substitute any of our rights against you.

**Severability.** If any term is void (invalid), unenforceable, or illegal, the term may be severed (removed) from and will not affect the rest of this agreement if it does not change its purpose.

**Governing law.** South African law governs this agreement.

**Jurisdiction.** You consent to the jurisdiction of the Magistrate's Court in respect of any action or proceedings that we may bring against you in connection with this agreement, even if the action or proceedings would otherwise be beyond its jurisdiction without prejudice to our right to institute any action in any other court having jurisdiction.