

COPYRIGHT LICENSE and SUBSCRIPTION AGREEMENT

This Copyright License Agreement (the “Agreement”) is entered into as of _____, 20____ (the “Effective Date”) by and between Jennifer Wilson, doing business as In the Moment Dementia Consulting, an Idaho Sole Proprietorship (the “Licensor”), and _____ (the “Licensee”) together with the Licensor each a “Party” and collectively the “Parties”.

RECITALS

WHEREAS, Licensor is a dementia consulting group which provides a wide range of consulting services, including training programs and content. Licensor also offers its proprietary training materials for licensing to its clients;

WHEREAS, as of the date of execution of this Agreement Licensor (i) has registered, (ii) has applied for the registration of that copyrightable, or (iii) has created work which qualifies as a copyrightable work of authorship more particularly described as the Herb Curriculum (the “Material”);; and

WHEREAS, the Licensor owns all rights in and to the Material and retains all rights to the Material that are not transferred herein, and retains all common law copyrights and all federal copyrights that have been, or that may be granted by the Library of Congress; and

WHEREAS, the Licensor has the right to license others to use, produce, copy, make, or sell the Material;

WHEREAS, the Licensee wants to obtain, and the Licensor has agreed to grant, a license authorizing the use of the Material for use by the Licensee subject to the terms and conditions of this Agreement; and

WHEREAS, each Party is duly authorized and capable of entering into this Agreement.

NOW THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. GRANT OF LICENSE.

Effective as of the Effective Date and subject to the terms and conditions of this Agreement, the Licensor hereby grants to the Licensees, and the Licensees hereby accept, a non-exclusive, non-transferable, worldwide right to use the Material, solely for Licensee’s own personal or internal business purposes. All rights not expressly granted to Licensee are specifically reserved by Licensor.

2. NO ASSIGNMENT OR TRANSFER.

The Licensee hereby acknowledges and agrees that the rights granted to Licensee by and obtained by Licensee as a result of or in connection with this Agreement are license rights only and that nothing contained in this Agreement constitutes or shall be construed to be an assignment or exclusive license of any or all of the Licensor's rights in the Material. The Licensor retains all ownership rights in and to the Material, and all rights not expressly granted in this Agreement.

3. RESTRICTIONS

Licensee may not access the Material if Licensee is a direct competitor of Licensor, except with Licensor's express prior written consent.

Licensee shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Material in any way; (ii) modify or make derivative works based upon the Material; (iii) create Internet "links" to the Material on any Internet-based device; or (iv) copy any ideas, features, functions or graphics of the Material. User licenses cannot be shared or used by more than one individual User.

4. INTELLECTUAL PROPERTY OWNERSHIP

Licensor alone shall own all right, title and interest, including all related Intellectual Property Rights, in and to, the Material and any suggestions, ideas, enhancements requests, feedback, recommendations or other information provided by Licensee or any other party relating to the Material. This Agreement is not a sale and does not convey to Licensee any rights of ownership in or related to the Material or the Intellectual Property Rights owned by Licensor. Licensor's name, logo, and the product names associated with the Material are trademarks of Licensor and no right or license is granted to use them.

5. FEES.

Licensee shall pay all fees or charges in Licensee's account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. The initial charges will be equal to the current number of total User licenses requested times the User license fee currently in effect. Payments must be made annually in advance unless otherwise mutually agreed upon in writing by Licensor and Licensee. All payment obligations are noncancelable, and all amounts paid or nonrefundable. Licensee is responsible for paying for all User licenses ordered for the entire License Term, whether or not such User licenses are actively used. Licensee must provide Licensor with valid credit card or approved payment method as a condition to signing up with Licensor. User licenses may be added at any time. Added licenses will be subject to the following: (i) added licenses will be coterminous with the preexisting License Term (either Initial Term or renewal term); (ii) the license fee for the added licenses will be the then current, generally applicable license fee; and (iii) licenses added in the middle of a billing term will be prorated for that billing term.

6. BILLING AND RENEWAL

Licensors charges and collects in advance for use of the Material. Licensor will automatically renew and bill your credit card or issue an invoice to you each year on the subsequent anniversary or as otherwise mutually agreed upon. The renewal charge will be equal to the then-current number of total User licenses times the license fee in effect during the prior term, unless Licensor has given you at least 30 days prior written notice of a fee increase, which shall be effective upon renewal and thereafter. Fees for other materials will be charged on an as-quoted basis. Licensor's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Licensee shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on Licensor's income.

Licensee agrees to provide Licensor with complete and accurate billing and contact information. This information includes Licensee's legal name, street address, e-mail address, and name and telephone number of an authorized billing contact. Licensee agrees to update this information within 30 days of any change to it. If the contact information provided is false or fraudulent, Licensor reserves the right to terminate access to the Material in addition to any other legal remedies.

If Licensee believes a bill is incorrect, Licensee must contact Licensor in writing within 60 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

7. TERMINATION UPON EXPIRATION/REDUCTION IN NUMBER OF LICENSES

This Agreement commences on the Effective Date. The Initial Term will one year, commencing on the date Licensee pays for use of the Material. Upon the expiration of the Initial Term, this Agreement will automatically renew for successive renewal terms equal in duration to the Initial Term (one year) at Licensor's then current fees. Either party may terminate this Agreement or reduce the number of licenses, effective only upon the expiration of the then current License Term, by notifying the other party in writing at least five (5) business days prior to the date of the invoice for the following term.

8. TERMINATION FOR CAUSE

Any breach of Licensee's payment obligations or unauthorized use of the Material will be deemed a material breach of this Agreement. Licensor, in its sole discretion, may terminate any and all Licensee's Licenses and use of the Material if Licensee breaches or otherwise fails to comply with this Agreement.

9. REPRESENTATIONS AND WARRANTIES.

- (a) The Parties each represent and warrant as follows:
 - A. Each Party has full power, authority, and right to perform its obligations under the Agreement.

- B. This Agreement is a legal, valid, and binding obligation of each Party, enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditors' rights generally and equitable remedies).
 - C. Entering into this Agreement will not violate the charter or bylaws of either Party or any material contract to which that Party is also a party.
- (b) The Licensor hereby represents and warrants as follows:
- A. It is the sole owner of all right, title, and interest in and to the Material;
 - B. It has the right to grant permission for use of the Material as specified in this Agreement;
 - C. the Material is original, is not in the public domain, is not plagiarized, and does not contain anything that is libelous or obscene;
 - D. It has not assigned, transferred, exclusively licensed, pledged, or otherwise encumbered the Material or agreed to do so;
 - E. It is not aware of any violation, infringement, or misappropriation of any third party's rights or any claims of rights (including existing intellectual property rights, rights of privacy, or any other rights) by the Material;
 - F. It is not aware of any third-party consents, assignments, or licenses that are necessary to perform under this Agreement; and
 - G. It was not acting within the scope of employment of any third party when conceiving, creating, or otherwise performing any activity with respect to the Material purportedly licensed in Section 1.

10. INDEMNIFICATION.

Licensee shall indemnify and hold Licensor, its subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim, which if true, would constitute a violation by Licensee of Licensee's representations and warranties; or (ii) a claim arising from the breach by Licensee or Licensee's Users of this Agreement, provided in any such case that Licensor (a) gives written notice of the claim promptly to Licensee; (b) gives Licensee sole control of the defense and settlement of the claim (provided that Licensee may not settle or defend any claim unless Licensee unconditionally releases Licensor of all liability and such settlement does not affect Licensor's business or Service); (c) provides to Licensee all available information and assistance; and (d) has not compromised or settled such claim.

Licensor shall indemnify and hold Licensee, and its subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that the Material directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; (ii) a claim, which if true, would constitute a violation by Licensor of its representations or warranties; or (iii) a claim arising from breach of this Agreement by Licensor; provided that Licensee (a) promptly gives written notice of the claim to Licensor; (b) gives Licensor sole control of the defense and settlement of the claim (provided that Licensor may not settle or defend any claim unless it unconditionally releases Licensee of all liability); (c) provides to Licensor all available information and assistance; and (d) has not compromised or settled such claim. Licensor shall have no indemnification obligation, and Licensee shall indemnify Licensor pursuant to this Agreement, for claims arising from any infringement arising from the combination of use of the Material with any of Licensee products, service, or business process(s).

11. SUCCESSORS AND ASSIGNS.

All references in this Agreement to the Parties shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

12. NO IMPLIED WAIVER.

The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

13. NO AGENCY RELATIONSHIP.

This Agreement creates a Licensor-Licensee relationship between the Parties. Nothing in this Agreement shall be construed to establish a joint venture, agency, or partnership relationship between the Parties.

14. NOTICE.

Any notice or other communication provided for herein or given hereunder to a Party hereto shall be in writing and shall be given in person, by overnight courier, or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective Party as follows:

If to the Licensor:

Jennifer Wilson
d/b/a In the Moment Dementia Consulting
2313 N. Claremont Dr.

Boise, ID 83702-3018

If to the Licensees:

[NAME]

[ADDRESS]

[ADDRESS]

15. GOVERNING LAW.

This Agreement shall be governed by the laws of the state of Idaho. In the event that litigation results from or arises out of this Agreement or the performance thereof, the Parties agree to reimburse the prevailing Party's reasonable attorneys' fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing Party may be entitled.

16. COUNTERPARTS/ELECTRONIC SIGNATURES.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

17. SEVERABILITY.

Whenever possible, each provision of this Agreement, will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.

18. ENTIRE AGREEMENT.

This Agreement constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

19. HEADINGS.

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

LICENSOR

JENNIFER WILSON
D/B/A IN THE MOMENT DEMENTIA CONSULTING

By: _____

Name: Jennifer Wilson

Title: Sole Proprietor

LICENSEE

By: _____

Name:

Title: