

Licence Agreement

Treble J Group Pty Ltd trading as Training
and Business Solutions Consulting

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Licence Agreement

Date:	
Parties	<p>Compliant Learning Resources Pty Ltd of GPO Box 1180 Brisbane Qld 4001 Phone: 1300 885 484 Email: support@compliantlearningresources.com.au</p> <p style="text-align: right;">(Licensor)</p> <p style="text-align: right;">(Licensee)</p>
Background	<p>A. The Licensor is the owner of the Product and the corresponding Intellectual Property Rights.</p> <p>B. The Licensee requires the Product for the purposes of conducting its Business.</p> <p>C. The Licensor and the Licensee wish to record the license which has been granted to the Licensee to use the Product in accordance with the terms of this Agreement.</p>

Licence Agreement

1. Definitions and Interpretations

1.1 Definitions

In this Agreement the following definitions shall apply:

Agreement means this agreement, (including the recitals, schedules, appendices and exhibits to it), as it may later be amended or supplemented by the parties in writing;

Agreement Date means the date specified as such in the Schedule or if no date is specified in that place, the date of execution by the last party to execute this Agreement;

Assessment Resource means assessment material to support the nominated unit of competency. Where applicable:

- (a) Underpinning knowledge assessment, marking guide, mapping
- (b) Case scenario assessment, marking guide, mapping
- (c) Practical activities assessment, marking guide, mapping

Authorised Representative means:

- (d) in respect of a party which is a corporation:
 - (i) a company secretary or director or any officer of the corporation whose title or office includes the words "manager" or "director"; or
 - (ii) a person acting with the title or in the office of manager or director; and
- (e) in respect of each party, a solicitor of that party or a person nominated by Notice to the other party as an authorised representative;

ASQA means the Australian Skills Quality Authority;

Books of Account means those financial records prepared in accordance with normal accounting principles consistently applied in respect of the Business of the Licensee;

Business means the business operated by the Licensee described as such in the Schedule;

Business Day means a day, not being a Saturday, Sunday or gazetted public holiday, on which banks are open for commercial business at Brisbane and in the place or places where performance of a relevant Obligation is or is required to take place;

Claim means, in relation to a person, a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, chose in action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against the person, however arising and whether ascertained or unascertained, or immediate, future or contingent;

Confidential Information means all technical and other information and know how, including all information and know how in any eye or machine readable form or other format, disclosed or given to the Licensee from any source in respect of or incidental to:

- (a) the Product;
- (b) the Technology; and
- (c) the structure of the Licensor, its business plans, projections, financials, estimates, market plans and assessments; and
- (d) any other information disclosed or given to the Licensee by the Licensor which is declared by the Licensor to be Confidential Information.

Contract means any agreement, license, arrangement or understanding express or implied whether written or oral which has been entered into by the Licensee and Licensor which could have a material adverse affect on their ability to perform and discharge their Rights and Obligations under this Agreement;

Event of Force Majeure means the occurrence of an event or circumstances beyond the reasonable control of the party affected by it including (without limitation):

- (a) a war (declared or undeclared), insurrection, civil commotion, military action, or an act of sabotage;
- (b) a strike, lockout or industrial action, dispute or disturbance of any kind;
- (c) an act of a government or a Government Authority;
- (d) an act of God; or
- (e) storm, tempest, fire, flood, earthquake or other natural calamity.

and **Force Majeure** shall have a similar meaning;

Future Rights means jointly and severally all of those Rights (statutory and otherwise) comprised in the Intellectual Property Rights which may arise, be created, be granted or acquired in any way whatsoever in the future in respect of the Product;

Government Authority means any local, State or Federal government, a Minister or government department of each of those governments, a corporation or authority constituted for a public purpose, the holder of an office for a public purpose, a local authority and any agent or employee of any of them;

Improvements means any improvement, modification, enhancement, derivative, application or use of the Intellectual Property Rights conceived, created or arising during or subsequent to the Licensee's access to the Product including all Future Rights;

Intellectual Property Rights means:

- (a) jointly and severally any Rights as they relate to the Confidential Information, and any copyright, trade mark Rights, the patent Rights, the Improvements and the Future Rights; and
- (b) all the Rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and
- (c) any application or Right to apply for registration of any of the Rights referred to in the subclause (a);
- (d) where applicable the Patent and Trade Mark,
- (e) and Intellectual Property shall have the same meaning;

License Fee means the amount calculated and paid by the Licensee to the Licensor specified as such in the Schedule;

Notice means a written notice, consent, approval, direction, order or other communication;

Notice Address means in respect of a party:

- (a) the address or facsimile number specified as such in the Schedule; or
- (b) where a party gives Notice to all other parties of another address or facsimile number, the last address or facsimile number so notified;

Obligation means any legal, equitable, contractual, statutory or other obligation, agreement, covenant, commitment, duty, undertaking or liability;

Related Body Corporate of a body corporate is a body corporate which is related to that body corporate as specified in the Corporations Act 2001 (Cth);

Right includes a legal, equitable, contractual, statutory or other right, power, authority, benefit, privilege, remedy, discretion or cause of action;

Product means the system described as such in the Schedule and the corresponding Intellectual Property Rights;

Technology means all that technical information which relates to or forms part of the Product, including without limitation methodology, techniques, drawings, outlines, notes, algorithms, detailed designs, flow charts, results, software, (partial or intermediate versions and prototypes) data, formulae and other proprietary information and know how in the Licensee's possession or control or which is revealed to the Licensee which relates to the Product;

Term means the period from the Agreement Date until the termination or expiration of this Agreement in accordance with clause 7; and

Territory means the Commonwealth of Australia.

SNR means Standards for Nationally Registered RTOs

1.2 Interpretation

In the interpretation of this Agreement, unless the context or subject matter otherwise require:

- (a) singular includes plural and vice versa;
- (b) any gender includes every gender;
- (c) a reference to a person includes corporations, trusts, associations, partnerships, a Government Authority, and other legal entities, and where necessary, include successor bodies;
- (d) references to writing include printing, typing, facsimile and other means of representing or reproducing words, figures, drawings or symbols in a visible and tangible form, in English;
- (e) references to signature and signing include due execution of a document by a corporation or other relevant entity;
- (f) references to months mean calendar months;
- (g) references to statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws and ordinances made under those statutes;
- (h) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes;
- (i) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of this Agreement;
- (j) where any word or phrase is given a defined meaning, another grammatical form of that word or phrase has a corresponding meaning;
- (k) each paragraph or sub-paragraph in a list is to be read independently from the others in the list;
- (l) a reference to an agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time; and
- (m) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.

2. License

2.1 Grant of Rights

The Licensor hereby grants to the Licensee an perpetual, non-exclusive license to use, reproduce and improve the Product (and the corresponding Intellectual Property Rights so far as they relate to, protect or form part of the Product) in the conduct and operation of the Business of the Licensee.

2.2 Licensee Undertakings

Throughout the term of this Agreement the Licensee hereby undertakes to:

- (a) use, reproduce, and improve the Product in accordance with all the laws in force throughout the Territory for the Term;
- (b) use its reasonable commercial endeavours to preserve the value and validity of the Intellectual Property Rights;
- (c) during the Term and thereafter the termination of this Agreement not to allow or facilitate the use nor exploit the Intellectual Property Rights in respect of the Product in a manner in any way detrimental to the operation of the Licensor pursuant to this Agreement and not at any time to contravene, deny, contest, contribute nor object to in any way directly or indirectly in respect of the rights subsisting in the Intellectual Property Rights and to take such steps as may be appropriate and available to the Licensee to prevent the infringement of any and all the rights subsisting in the Intellectual Property;
- (d) refrain either by itself or through or in conjunction with any other person, directly or indirectly from being concerned in any activity which would or might have an adverse effect on the profitability of the Product;
- (e) to use the Product only on or in connection with the ordinary course of its Business;
- (f) treat as confidential the Confidential Information except that which at the time of its disclosure to the Licensee was generally available or subsequently became known to the public provided always that this covenant shall continue in full force and effect notwithstanding that this Agreement has terminated; and
- (g) immediately notify the Licensor if the Licensee becomes aware of any unauthorised disclosure of, any Confidential Information.

3. Improvements

3.1 Improvements Vest in Licensor

In the event that during the term the Licensee develops any Improvements, the Licensee hereby irrevocably:

- (a) grants to the Licensor the right to apply for any incident of Intellectual Property Rights available in respect of that Improvement and in connection with such application, the Licensee shall:
 - (i) make supply and assist in the preparation of all models plans drawings or specifications necessary or convenient for the proper understanding or development of the Improvements;

- (ii) grant and do all things necessary to give effect to an assignment of the Intellectual Property Rights in respect of the Improvements to the Licensor; and
- (b) assigns, transfers and sets over absolutely to the Licensor all Right, title and interest to the Improvements including all Claims as they relate to the Improvements.

3.2 All Improvements are Confidential

In the event that such Improvements are not capable of being protected by Future Rights, the Licensee shall treat the Improvements as confidential and shall refrain (without the written consent of the Licensor) from disclosing to any other person the nature of the Improvement or any documents or other information acquired by the Licensee in the course of developing the Improvement or from using such document or information for any purpose.

4. Term

4.1 Continuation of Agreement

Subject to the Rights of early termination contained in clause 7 of this Agreement the Licensee has the right to continue using the Intellectual Property Rights for so long as the Licensor and the Licensee agree to continue this Agreement, in which case the terms of the Agreement will continue to apply.

4.2 Early Termination

In the event of the termination of the Agreement, the License Fee shall remain the property of the Licensor and the Licensee shall make no Claim in respect of it.

5. License Fees

5.1 Payment of Licence Fee

In consideration of the Licensor granting the Licence, the Licensee shall pay to the Licensor the License Fee.

5.2 GST

The License Fee is in Australian dollars and is exclusive of GST.

5.3 Method of Payment

- (a) Payment of the License Fee to the Licensor must be made by electronic funds transfer to the following bank account or any other bank account which may be notified in writing by the Licensor to the Licensee from time to time:

Account Name: Compliant Learning Resources Pty Ltd

Account Number: 504294276

BSB: 084-004

All costs relating to or arising out of the bank transfer will be borne by the Licensee.

- (b) The Licensor may, at its complete discretion, elect that payments be made via any other method, including by credit card.

6. Warranties

6.1 Warranties by the Licensor

The Licensor warrants for the benefit of the Licensee that:

- (a) the Licensor has the Right and full power and authority to enter into this Agreement;
- (b) the Licensor shall refrain from entering a Contract which reasonably and foreseeably will interfere with the full and prompt performance of the Licensor of this Agreement;
- (c) the covenants and warranties of the Licensor contained in this Agreement shall not merge in nor be extinguished, but shall be and remain in full force and effect until satisfied or discharged in accordance with the terms of this Agreement;
- (d) the Intellectual Property Rights do not and will not when used in accordance with this Agreement, infringe the intellectual property rights of any person.

6.2 Defence Against Claims/Indemnification

If a third party makes a Claim against the Licensee alleging that use of the Product infringes its intellectual property rights, then the Licensor will defend, indemnify and hold harmless the Licensee from and against any and all Claims provided that the:

- (a) the Licensee notifies the Licensor in writing promptly of the Claim;
- (b) the Licensee provides such information, assistance and co-operation as the Licensor may reasonably request and at its expense, from time to time; and
- (c) the Licensee allows the Licensor full discretion to defend, compromise or settle any such Claim on such terms as the Licensor thinks fit.

6.3 No Defence

Notwithstanding clause 6.2, the Licensor shall not defend the Licensee against any Claim if:

- (a) the Licensee uses the Product with any other system and if the use of the Product without such other system would not incur a Claim against the Licensee;
- (b) the Licensee uses the Product in any manner other than is intended or contemplated by this Agreement; or
- (c) the Licensee uses the Product with any system not approved by the Licensor for use in combination with the Product.

6.4 Settlement

Notwithstanding the provisions of clause 6.2(c) above, in the event that the settlement of any such Claim would result in a loss to the Licensee of its rights under this Agreement, or the Product is held by a court of competent jurisdiction to constitute an infringement and its use enjoined, the Licensor shall at its option:

- (a) modify the Product, without impairing in any material respect its functionality or performance, so that it is non-infringing; or
- (b) procure for the Licensee the Right to continue to use the Product, or
- (c) replace the Product with an equally suitable, non-infringing Product.

6.5 Termination and Refund

If the solutions in clause 6.4 cannot be achieved, the liability of the Licensor shall in all respects be limited to recalling the affected Product, terminating this Agreement, and refunding the Licensee an amount equal to the un-amortized portion of any initial upfront license fee paid for the Product, based on an anticipated life of one (1) year. The parties agree that the Licensee shall not be entitled to any refunds of the License Fees paid to the Licensor.

6.6 No Authorisation

Nothing in this clause authorises the Licensee to defend, compromise or settle any Claim on the Licensor's behalf.

7. Termination

7.1 By either party

This Agreement may be terminated by either party by Notice to the other party if the other party commits any breach of any provision of this Agreement and has failed to remedy such breach within fourteen (14) days of receipt of Notice specifying:

- (a) the exact nature of the breach committed by the defaulting party;
- (b) what is required by the defaulting party to remedy the breach.

7.2 Immediate termination

The Licensor may by Notice in writing immediately terminate this Agreement in any of the following circumstances:

- (a) the making or filing of any application to wind up the Licensee (otherwise than for the purposes of reconstruction or amalgamation) under any law or government regulation relating to bankruptcy or insolvency;
- (b) the appointment of a receiver, agent or manager for all or substantially all of the property of the Licensee;
- (c) the making by the Licensee of any assignment, arrangement or composition whether formal or informal for the benefit of its creditors; or
- (d) the institution by the Licensee of any proceedings for the liquidation or winding up of its Business.

7.3 Without prejudice to any other rights

Any termination of this Agreement pursuant to clause 7 shall be without prejudice to the Rights of the party terminating to seek and obtain damages for any breach of this Agreement by the other party.

8. Effect of Termination

Immediately upon termination or expiry of this Agreement, the Licensee shall deliver to the Licensor all documents and other materials (including all copies) in its possession relating to the Intellectual Property Rights and will do such further things as may be reasonably required by the Licensor to protect its Right, title and interest in the Intellectual Property Rights.

9. Indemnity and Release

9.1 Indemnity

The Licensee hereby agrees to fully effectually and promptly indemnify the Licensor against any loss (either direct or indirect) damage or expense whatsoever which the Licensor may suffer or incur in respect of:

- (a) any breach by the Licensee of the provisions of this Agreement; or
- (b) any breach by an sub-Licensee of the provisions of this Agreement or any sub-licence agreement; or
- (c) any Claim by any person against the Licensor arising out of or in respect of the exploitation of the Intellectual Property Rights by the Licensee or any sub-Licensee.

9.2 Release

The Licensee hereby irrevocably:

- (a) releases the Licensor; and
- (b) waives all Claims which the Licensee may have in the future against the Licensor;
- (c) in respect of any action Claim or remedy whatsoever in any way attributable to the exploitation of the Intellectual Property Rights by the Licensee and any sub-Licensee.

9.3 No Guarantee

The Licensor provides no guarantee that the Product will satisfy any audits, audit report findings or compliance investigations.

- 9.4 The Company releases and indemnifies the Consultant against any action, claim and demand by the Company's servants, employees or agents or their personal representative or dependants arising out of the performance of this Agreement.

10. Goods and Services Tax

10.1 All amounts are GST exclusive amounts

All amounts expressed or described in this Agreement are GST exclusive amounts.

10.2 All amounts to be increased for any GST

Subject to clause 0, if any GST (within the meaning of the *A New Tax Product (Goods and Services Tax) Act 1999* as amended from time to time, 'GST') is payable by any party ('Supplier') in respect of the supply of any goods, services, real property or any other things to another party ('Recipient'), then the amount expressed or described in this Agreement ('Original Amount') is to be increased so that the Supplier receives an amount ('Increased Amount') which, after subtracting the GST liability of the Supplier on that Increased Amount, results in the Supplier retaining the Original Amount after payment of that GST liability.

10.3 Supplier to assist Recipient

The Supplier will do all things reasonably available to it to assist the Recipient to claim on a timely basis any input tax credits (if any) the Recipient may be entitled to claim for any goods, services, or rights granted by or acquired from the Supplier. This includes the Supplier

maintaining its registered status for GST purposes, and issuing tax invoices for supplies made under this Agreement on a timely basis as reasonably requested by the Recipient.

Amounts to be reduced for benefits of GST related reforms

The Supplier acknowledges that under the GST Law the Supplier is required, from the date the GST is imposed, and at all times that a GST related tax reform takes effect, to reduce the consideration payable by the Recipient to the extent that the cost to the Supplier of supplying any goods or services or rights granted or other things under this Agreement is reduced.

11. Force Majeure

11.1 Excuse from performance of Obligation

If a party is prevented, hindered or delayed from performing its Obligations under this Agreement (other than an Obligation to pay money) by an Event of Force Majeure, then as long as that situation continues, that party shall be excused from performance of the Obligation to the extent it is so prevented, hindered or delayed, and that time for performance of the Obligation shall be extended accordingly, but if time is of the essence of this Agreement, time shall continue to remain of the essence.

11.2 Notification

A party affected by an Event of Force Majeure shall immediately notify the other parties of its occurrence and its effect or likely effect, and (subject to the provisions of the next clause) use all reasonable endeavours to minimise the effect of the Event of Force Majeure and to bring it to an end.

12. Assignment

12.1 Assignment and consent

No party shall be entitled to assign its Rights or Obligations under this Agreement without the prior written consent of the other parties, which consent may be given or withheld, or given on conditions, in the absolute discretion of the other parties.

12.2 Continuation of liabilities

After an assignment:

- (a) the assignor remains principally liable jointly and severally with the assignee for the performance and observance of all Obligations assigned to the assignee; and
- (b) the assignor shall procure the assignee to enter into a deed in which the assignee covenants to be bound by this Agreement, including (without limitation) this clause.

13. Notices

- (a) Any notice or other communication in connection with this Agreement must be in writing addressed to:
- (b) in the case of the Licensor to the Notice Address and the notice or other communication will be deemed to be received:
 - (i) in the case of a posted letter on the third day after posting;
 - (ii) in the case of delivery by generally recognised overnight courier, on the second day after dispatch with that courier;

- (iii) in the case of personal delivery on the date of delivery; and
 - (iv) in the case of facsimile transmission at the time recorded on the transmission report from the machine from which the facsimile was sent;
- (c) in the case of the Licensee to the Notice Address and the notice or other communication will be deemed to be received:
- (i) in the case of a posted letter on the third day after posting;
 - (ii) in the case of delivery by generally recognised overnight courier, on the second day after dispatch with that courier;
 - (iii) in the case of personal delivery on the date of delivery; and
 - (iv) in the case of facsimile transmission at the time recorded on the transmission report from the machine from which the facsimile was sent.

14. Dispute Resolution

14.1 Resolution

Any dispute arising in connection with this Agreement which cannot be settled by negotiation between the Parties or their representatives shall be submitted to arbitration in accordance with the Rules for the Conduct of Commercial Arbitrations of the Institute of Arbitrators Australia. During such arbitration, both Parties may be legally represented.

14.2 Mediation

Prior to referring a matter to arbitration pursuant to subclause 14.1, the Parties shall in good faith explore the prospect of mediation.

15. Proper Law, Jurisdiction

15.1 Choice of Law

This Agreement is governed by and construed in accordance with the laws of Queensland, Australia.

15.2 Jurisdiction

Actions suits or proceedings relating in any way to this Agreement or documents or dealings contemplated by it, may be instituted, heard and determined in a court of competent jurisdiction in Queensland.

15.3 Submission to jurisdiction

Each party irrevocably submits to the non-exclusive jurisdiction of such court for the purpose of any such action, suit or proceeding.

15.4 Service of process

A party may by Notice appoint another person at a specified address in Queensland to receive service of process in connection with proceedings and process served on that person is taken to be served on the party making the appointment.

16. Costs

Each party shall pay and bear its own costs of and incidental to the preparation, negotiation and execution of this agreement, but the Licensee shall pay all stamp duty on this Agreement and on any other document contemplated by it.

17. General Provisions

17.1 Waiver

The non-exercise of or delay in exercising a Right of a party shall not operate as a waiver of that Right, nor does a single exercise of a Right preclude another exercise of it or the exercise of other Rights. A Right may only be waived by Notice, signed by the party (or its Authorised Representative) to be bound by the waiver.

17.2 Further assurances

Each party to this Agreement shall do all things and sign, execute and deliver all deeds and other documents as may be legally necessary or reasonably required of it by Notice from another party to carry out and give effect to the terms and intentions of this Agreement and to perfect, protect and preserve the Rights of the other parties to this Agreement.

17.3 Liability of parties

If a party consists of more than one person:

- (a) an Obligation of those parties is a joint Obligation of all of them and a several Obligation of each of them;
- (b) a Right given to those parties is a Right given jointly and severally to each of them, and if exercised by one of them, is deemed to be exercised jointly; and
- (c) a representation, warranty or undertaking made by those parties is made by each of them.

17.4 Counterparts

This Agreement may be signed or executed in a number of counterparts, with the same effect as if the signatures to or execution of each counterpart were on the same instrument.

17.5 Warranty of authority

Each person signing this Agreement:

- (a) as attorney, by so doing, warrants to the other parties that, as at the date of signing, the signatory has not received notice or information of the revocation of the power of attorney appointing that person; and
- (b) as an Authorised Representative, agent or trustee of a party, warrants to the other parties that, as at the date of signing, the signatory has full authority to execute this Agreement on behalf of that party.

17.6 Severability

This Agreement shall, so far as possible, be interpreted and construed so as not to be invalid, illegal or unenforceable in any respect, but if a provision, on its true interpretation or construction is held to be illegal, invalid or unenforceable:

- (a) that provision shall, so far as possible, be read down to the extent that it may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation; or
- (b) if the provision or part of it cannot effectively be read down, that provision or part of it shall be deemed to be void and severable and the remaining provisions of this Agreement shall not in any way be affected or impaired and shall continue notwithstanding that illegality, invalidity or unenforceability.

17.7 Delivery as a deed

Subject to express provisions in this Agreement to the contrary, each party by signing or executing this Agreement is deemed to unconditionally sign, seal and deliver this Agreement as a deed, with the intention of being immediately legally bound by this Agreement.

Schedule 1

Item 1:

Item 2: **License Fee**

\$ inc GST

Item 3: **Product:**

As outlined in Annexure "A"

Item 4: **Business**

Assessment resources

Item 5: **Notice Addresses:**

Licensor

Service address:

Compliant Learning Resources Pty Ltd of

GPO Box 1180 Brisbane Qld 4001

Phone:

Email:

Attention:

William Cowie

Licensee

Service address:

Attention:

Executed as an Agreement

Executed by _____)
accordance with section 127 of the in)
Corporations Act 2001 the)

.....
Director

.....
Director/Secretary

.....
Name (please print)

.....
Name (please print)

Executed by **Compliant Learning Resources**)
Pty Ltd in accordance with section 127 of the)
Corporations Act 2001)

.....
Director

William Cowie
.....
Director/Secretary

.....
Name (please print)

William Cowie
.....
Name (please print)

Annexure “A”

Product

The Product comprises the following documents, all of which will be provided in Microsoft Word format:

- (a) Assessment resources to support:
 - CPPSEC2101 Apply effective communication skills to maintain security