

Walking Wise® Learning Center Agreement

This Learning Center Agreement and any Orders attached hereto (collectively the “Agreement”) set forth the terms and conditions under which you may subscribe to the Learning Center. “We,” “us,” and “our” mean Walking Wise, LLC. “You,” “your,” and “yours” mean the person or legal entity that signs this agreement.

1. Learning Center Subscription.

- 1.1.** “Center” means our online curriculum and Learning courses as set forth on an applicable Order. This includes, without limitation, documents, data, other materials, and limited support services that we provide to you.
- 1.2.** “Order” means a subscription Order confirmation provided by us to you that incorporates this Agreement by reference and describes the terms and conditions of your subscription to the Center.
- 1.3.** You are responsible for your use of the Center, including use by your Authorized Users. You shall ensure that Authorized Users comply with this Agreement. You are responsible for its actions and the contents of its transmissions through the Center. You are responsible for ensuring that any content you provide us complies with applicable law, including content uploaded by your Authorized Users.
- 1.4.** “Authorized User” means your employees and independent contractors who are authorized by us to access the Center with an individually assigned username and password. The Center is available only to you and any Authorized Users.
- 1.5.** You may not: (a) build a product, service, or offering that competes with us or the Center; (b) duplicate, disassemble, reverse engineer, or otherwise reproduce without authorization any portion of the Center; (c) resell direct access to the Center to a third party; (d) scrape, steal, or copy any part of the Center without authorization; (e) disclose any performance data relating to the Center except internally, to its contractors with a need to know, and as part of a legal proceeding; or (e) sell or transfer to another third party use of the Center in violation of this Agreement.
- 1.6.** You may not use the Center for: (a) activity that violates or infringes upon the rights of third parties; (b) activity that violates applicable law, (c) defamatory, harassing, abusive, threatening, obscene, hateful, sexist, offensive, or fraudulent content or activity; (d) sending viruses, spyware or similar computer programming routines, or unsolicited mail; or (e) any purposes inconsistent with this Agreement.

2. Responsibilities of the Parties.

- 2.1.** The Center is a valuable trade secret and our confidential proprietary property. You agree to access and use the Center only as provided in this Agreement and to reasonably safeguard the Center when you use it.
- 2.2.** Subject to the terms of the Agreement, we hereby authorize you to access and use the Center and provide you with a limited, non-exclusive, non-transferrable (except as set forth in Section 11.6 below), revocable-at-any-time license during the term of the applicable Order to access and use the Center for your own business purposes. Except as otherwise stated in this section or the Order, you do not obtain any other rights to the Center. We warrant that we have the right and authority to provide the Center and that the Center does not infringe the rights of others or violate applicable law.
- 2.3.** You hereby grant us a limited, non-exclusive, royalty-free, non-transferrable, revocable at any time license to access, display, store, create derivative works of, transmit, or otherwise use or process any content or information that you provide us solely to use in connection with the Center. You warrant that you have the right and authority to provide such content or information to us, and the content and information do not infringe the rights of others or violate applicable law.

3. Confidentiality.

- 3.1.** Both parties have made and will continue throughout the term of this Agreement to make available to the other party confidential and proprietary materials and information (“Confidential Information”). Prospectively, each party shall advise the other party of material and information that is confidential and/or proprietary. All material and information provided by you to us relating to your business, policies, procedures, customs, and forms, including information previously divulged or delivered relating to the aforementioned subject matter, is hereby designated as confidential and proprietary and shall be considered Confidential Information. Each party shall maintain the confidentiality of the other’s Confidential Information and will not disclose such Confidential Information without the prior written consent

of the other party. In addition, neither party shall use the other party's Confidential Information except as contemplated herein.

3.2. It is understood that the obligations set forth above in this section do not apply to materials or information that (a) are already, or otherwise become, generally known by third parties as a result of no act or omission of the receiving party; (b) subsequent to disclosure hereunder are lawfully received from a third party having the right to disseminate the information without restriction on disclosure; (c) are generally furnished to others by the disclosing party without restriction on disclosure; (d) were already known by the receiving party prior to receiving them from the disclosing party and were not received from a third party in breach of that third party's obligations of confidentiality; or (e) are independently developed by the receiving party without the use of confidential information of the disclosing party.

3.3. Each party acknowledges that the disclosure of the other party's Confidential Information would cause substantial harm to such party that could not be remedied by the payment of damages alone. Accordingly, each party will be entitled to preliminary and permanent injunctive relief and other equitable relief for any breach or threatened breach of this Section 3.

4. Charges, Taxes, and Payment.

4.1. All subscriptions are annual with annual billing payments. Subscription purchases are final and non-refundable. You agree to pay all applicable charges specified for the Center and any charges imposed by any governmental authority resulting from your use of the Center, including any applicable sales taxes, but excluding any taxes on our income or operations. Amounts are due and payable immediately upon receipt of your invoice. Amounts not paid within 30 calendar days after receipt of an undisputed invoice are subject to a charge of 3% per month. We may, at our sole discretion, terminate this Agreement if you have failed to pay any amount due for more than 60 calendar days, after 30 days written notice of the right to cure. Any pre-approved travel expenses will be paid for by you and invoiced, with all receipts, at reasonable cost to you.

5. Warranties.

Each party warrants to the other that this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms. We represent and warrant the Center will provide the services as set forth in the applicable Order.

6. Warranty Disclaimer.

6.1. EXCEPT AS SET FORTH ELSEWHERE IN THIS AGREEMENT, THE CENTER IS MADE AVAILABLE UNDER THE AGREEMENT AS-IS AND AS AVAILABLE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. EXCEPT AS SET FORTH ELSEWHERE IN THIS AGREEMENT, WE EXPRESSLY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE FOR THE CENTER AND ANY SERVICES PROVIDED HEREUNDER.

6.2. WE DO NOT WARRANT THAT THE CENTER WILL BE (A) UNINTERRUPTED, TIMELY, OR ERROR-FREE, (B) THAT WE WILL CORRECT THE CENTER OR (C) THAT THE CENTER AND ANY SERVICES PROVIDED BY US ARE ACCURATE OR COMPLETE.

7. Limitation of Liability.

7.1. NEITHER PARTY IS LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, BUSINESS, REPUTATION, OPPORTUNITIES, VALUE, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS, OR COST OF REPLACEMENT SERVICES. THESE LIMITATIONS APPLY REGARDLESS OF WHETHER EITHER PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. OUR ENTIRE LIABILITY FOR A CLAIM ARISING FROM OR RELATING TO THE AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO SIX (6) MONTHS' PRIOR FEES PAID BY YOU TO US IN RELATION TO THAT CLAIM.

8. Changes.

8.1. We may, in our sole discretion, modify the Center from time to time. Such modification to the Center will replace prior versions. You may not refuse these modifications to the Center.

8.2. All changes or modifications to the Agreement must be in writing, specifying such changes.

9. Term and Termination.

- 9.1. The term of this Agreement begins upon execution and continues until terminated as described below (the “Term”). Termination of this Agreement by either party automatically terminates all Orders.
- 9.2. The term of your subscription to the Center is set forth in the applicable Order. Your subscription to the Center shall renew automatically annually unless you provide notice of your intent not to renew your subscription to the Center at least thirty (30) calendar days prior to the end of the Term.
- 9.3. You may terminate the Agreement or an Order without cause upon ninety (90) days’ prior notice exclusively through the Center. We may refuse to offer you a Renewal Term or accept a renewal request from you in our sole discretion at any time.
- 9.4. The Agreement shall automatically terminate upon the liquidation or insolvency of either party or the appointment of a trustee or receiver for either party.
- 9.5. Upon termination of the Agreement or applicable Order: (a) We may immediately terminate your (and any Authorized User’s) access to the Center; and (b) you and any Authorized Users shall immediately cease using any portion of the Center.
- 9.6. Either party may terminate the Agreement for material breach upon 30 calendar days’ prior written notice, provided that the breaching party does not cure it within the thirty (30) calendar day notice period. Your failure to pay us on time is a material breach.
- 9.7. If the Agreement is terminated for any reason (except for material breach by us), you shall pay to us, on the date of termination, the total amount outstanding under the Agreement. If we terminate this Agreement for a reason other than your material breach of the Agreement or if the Agreement is terminated for material breach by us, we shall provide you a pro rata refund for any prepaid fees.
- 9.8. After termination, we shall securely delete or destroy any content or information you provide to us that was incorporated into the Center. Upon request, we shall certify in writing such deletion or destruction.

10. Governing Law.

- 10.1. This Agreement is governed by the laws of the State of Ohio, United States, without regard to conflict of law principles. The parties submit to the sole and exclusive jurisdiction of, and venue in, the state or federal courts located in Franklin County, Ohio, in any action or proceeding arising from or relating to this Agreement. Enforcement of a judgment of the foregoing courts may be enforced in any court having jurisdiction.
- 10.2. Each party may seek injunctive or other equitable relief for actual or threatened breach of confidentiality, security, privacy, or intellectual property protections under the Agreement.

11. General.

- 11.1. This Agreement constitutes the entire agreement of the parties and supersedes all prior or contemporaneous understandings, representations, discussions, or agreements between the parties relating to its subject matter. For the avoidance of doubt, this Agreement shall also supersede any agreement between the parties relating to the subject matter hereof and entered into before or after the Effective Date (including, without limitation, those entered into by Authorized Users), including, without limitation, any clickwrap, clickthrough, browse wrap, EULA, or other documents stipulating additional or different terms (and Authorized users shall not be bound by the foregoing.)
- 11.2. In the event of a conflict between the Order and the Agreement, the Order governs.
- 11.3. If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect.
- 11.4. The waiver of a breach of any term of the Agreement, which must be in writing, will not operate as or be construed to be a waiver of any other previous or subsequent breach of the Agreement.
- 11.5. The parties are independent contractors. Each party is responsible for determining the assignment of its affiliates’ personnel, and their respective contractors and vendors, and for their direction, control, and compensation.

- 11.6.** You may not assign the Agreement, in whole or in part, without our prior written consent. We may assign the Agreement at its sole discretion. Any assignment, transfer, or delegation in violation of this section is void.
- 11.7.** All notices under the Agreement must be in writing and sent to the business address specified in the Agreement unless a party designates a different address in writing.
- 11.8.** This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and become effective when counterparts have been signed by each party and delivered to the other party.
- 11.9.** The parties' consent to the use of electronic signatures. Any reproduction of the Agreement made by reliable means is considered an original.
- 11.10.** This Agreement does not create any third-party rights.
- 11.11.** Any terms that by their nature extend beyond the Agreement termination, including, but not limited to provisions relating to confidentiality, indemnity, limitation of liability, warranties, data protection, and this Section 11, remain in effect after termination and apply to successors and assignees.
- 11.12.** We shall not use your logo, name, or trademark on our website or otherwise without your prior written consent.
- 11.13.** We shall not be responsible or liable for delay or failure in the performance of the Center or the promises and agreements on its part to be performed hereunder, if such delay or failure is due to any cause beyond its control, including, but not limited to, strikes, differences with workmen, scarcity of labor, fires, floods, storms, cyberattacks, pandemics, accidents, breakage of machinery, scarcity of materials or fuel, transportation embargoes, governmental regulations or orders, acts of public enemies, rioters or acts of God.
- 11.14.** The parties hereto are sophisticated, commercial parties. The Agreement will not be construed against the drafter.
- 11.15.** Parties acknowledge that they have read the Agreement, understand it, and agree to be bound by its terms. The parties acknowledge that the person signing on their behalf is authorized to do so.