

License and Services Agreement

This License and Services Agreement is a legal agreement between you and RAW Mind Training ABN 73 611 375 501 and governs the e-learning program (**Software**) made available to you on this site (**Agreement**). By using the e-learning program, you agree to the terms and conditions of this Agreement (**Terms**). Please read the Terms carefully and in full prior to using the Software. If you do not agree with the Terms please do not use the e-learning program.

The term 'RAW Mind Training Pty. Ltd.' or 'supplier' or 'us' or 'our' or 'we' refers to RAW Mind Training Pty. Ltd., the owner of the website. The term 'Client' or 'you' or 'your' refers to the purchaser of the Software.

DETAILS	
ENTIRE AGREEMENT	This Agreement consists of the General Terms, these Details and any annexures or schedules to this Agreement.
COMMENCEMENT DATE	This Agreement will be effective as of the date you accept this Agreement, thereby expressly agreeing to the terms and conditions set forth herein, and will remain effective until the Expiration Date.
EXPIRATION DATE	1 calendar year from the Commencement Date.
SOFTWARE	RAW Mind Coach is a ten session e-learning program developed with the aim of developing psychological resilience in users. The program is delivered online through the website www.rawmindcoach.com
PERMITTED USERS	The Client is permitted to enrol a number of users equal to the number of enrolments purchased on the Website. Each completed user registration constitutes an Enrolment.
SERVICE FEE	<p>The service fee is based on the number of enrolments purchased and any discount applied. The service fee can be viewed on the purchase page of the website.</p> <p>The service fee may be paid via credit card, PayPal or EFT.</p> <p>Payments made via EFT must be made to the following account: BSB: 302 162 Account: 0961200.</p> <p>When payment is made by EFT, remittance advice must be sent to the accounts department of the Supplier.</p> <p>Additional service fees will apply for additional enrolments or for users to access to the Software for a period in excess of 12 months.</p>
BACKGROUND	<p>(a) Supplier owns the Software.</p> <p>(b) The Client wishes to be a non-exclusive licensee of the Software</p> <p>(c) Supplier agrees to grant to the Client, and the Client agrees to accept, a non-exclusive licence to the Software and to provide</p>

	agreed support services, and the parties agree to accept certain other rights and obligations, on the Terms.
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GENERAL TERMS

1 Grant of licence

1.1 Licence

Supplier grants the Client from the Commencement Date for the duration of the Term, a non-exclusive, non-transferable, revocable licence to:

- (a) use the Software; and
- (b) use the Documentation,

subject to and in accordance with the terms of this Agreement (**Licensed Use**).

1.2 Acceptance

These Terms form the Agreement between the Supplier and the Client, collectively referred to as the Parties and each a party. By using the Software, the Client acknowledges that:

- (a) they have read, understood and accepted the Terms;
- (b) they have the authority to act on behalf of any person or entity using the Software; and
- (c) they are deemed to have agreed to these Terms on behalf of any entity who will use the Software.

1.3 Delivery

The Software will be delivered online. Access to the Software will be provided within 24 hours of payment of service fee.

1.4 Number of users

The Client acknowledges and agrees that:

- (a) subject to clause 1.4(b), the Software will not be used by more than the Permitted Number of users;
- (b) the Client must obtain Supplier's written consent prior to the Software being used by more than the Permitted Number of users and Supplier may charge additional Service Fees for such additional Permitted Numbers as notified by Supplier; and
- (c) permitted users will not share access to the Software.

1.5 Restrictions on use

The Client must not, whether by itself or through any Affiliate, agent or third party, except with Supplier's prior written consent:

- (a) install or use the Software for any purpose other than the Licensed Use;
- (b) adapt, translate, rent, lease, loan, distribute or sell the Licenced Units;
- (c) de-compile, reverse engineer, disassemble or otherwise reduce the Software to human readable form or create any derivative works based on the Licenced Units or Confidential Information;
- (d) copy the Licenced Units in whole or in part;
- (e) disclose the Client's personal password or licence file to any person who is not an authorised user;
- (f) remove, tamper with, attempt to override or otherwise interfere with any security or technological protection measure forming part of the Software; or
- (g) remove, destroy, or obscure from view any copyright, trade mark or confidentiality notice or legend appearing on or within the Software.

1.6 Units

The Client acknowledges that it is solely responsible for obtaining, operating and maintaining all elements of the Licenced Units used to access the Software and for all computer functionality, operating systems, network services and regular data backup which may be required to use the Software.

1.7 Browser and operating system support

The Software may not support all browsers or operating systems. The client acknowledges that it is their responsibility to install a compatible browser or operating system.

2 Service Fee

2.1 Service Fee

On or before the Commencement Date the Client must pay the Service Fee to Supplier in the amounts and in the manner specified in the Details.

2.2 Late payment

Without prejudice to Supplier's other rights or remedies, if the Client fails to pay any amount by the due date Supplier may charge interest on the amount outstanding calculated daily from the due date of payment to the date payment is received by Supplier in full and at an

interest rate of 2% above the rate quoted on the due date of payment (and if no rate was quoted on that day, the day on which it is next quoted) for business overdrafts over AUD\$100,000 by Supplier's principal Australian bank.

2.3 Taxes

- (a) All fees payable by the Client under this Agreement, including Service Fees, exclude GST and other applicable taxes, duties, imposts and other similar charges (**Taxes**).
- (b) If Taxes are payable on any supply made under this Agreement, the Client must pay Supplier an additional amount equivalent to the Taxes at the time that payment to Supplier is due. Supplier will provide a tax invoice to the Client.

2.4 Service fees for use beyond 1 year

After 12 months from the initial purchase date a service fee for continued use of the Software is payable annually in advance by the Client. The current pricing may vary this from time to time. Changes posted on our website shall take effect for you from your next billing cycle i.e. you will only be subject to price increases after the period that you have already paid for.

2.5 How payments are made

Client service fees can be paid via credit/debit card or we will invoice you by Agreement, payment being required before your account will be activated.

2.6 Non-payment

We shall be under no obligation to provide the Software if the subscription fee (plus GST) is not paid to us on time. The Client must ensure that we have complete and accurate billing and contact information throughout the subscription period, including the full name of the Client, its business address, and a billing contact email address. If subscription fees become overdue, because for example the Client's credit card has expired, we reserve the right to suspend your access to the Software until the balance is paid and/or we may close your Account permanently without notice.

2.7 Free trials and beta trials

No charge for use of the Software will be made during any 'free trial' period or any 'beta trial' period. The Client is not however entitled to benefit from more than one 'free trial'. If we discover that more than one 'free trial' has been requested, we reserve the right to charge you for all use of the Software made after the first 'free trial' period. We may withdraw any 'free trial' or 'beta trial' services at any time without notice.

2.8 Security of your credit card

We take care to make Our Website safe for you to use. Card payments are not processed through pages controlled by us. We use one or more online payment service providers who will encrypt your card or bank account details in a secure environment.

3 Support Services and Updates

3.1 Support Services

- (a) Upon reasonable request from the Client, the Supplier will use its best commercial endeavours to provide telephone and/or email support at no additional cost during Business Hours. The Supplier's business hours are 9.00am to 5.00pm Monday to Friday in New South Wales, excluding Public Holidays in New South Wales. The Client may request support services by emailing info@rawmindcoach.com.

- (b) In the event a support request requires a more detailed technical response, these support services will be charged at Supplier's standard rates in force at the time the service is provided and will be provided on terms to be agreed by the Parties.
- (c) Supplier may subcontract all or part of the provision of any support services to third parties.

3.2 Client Obligations and Acknowledgments

- (a) In the event of a defect in the Software or error in the Documentation, Client shall notify Supplier of any such defect or error and provide Supplier with a documented example of any defect promptly after it is detected.
- (b) Client further agrees to not request or permit persons other than those authorised by Supplier to provide support services in respect of the Software.
- (c) The Client agrees to cooperate with Supplier in diagnosing any reported Software defect including the timely provision of access, information, data, decisions and approvals as reasonably requested by Supplier.

3.3 Provision of Updates

Supplier may during the Term, in its sole discretion, provide Updates and related Documentation to the Client free of charge.

3.4 Compliance with Supplier's directions

Updates must be applied in accordance with Supplier's directions. If the Client fails to apply an Update as required by Supplier, Supplier will have no obligation to continue to provide any further Updates.

3.5 Development of Software

The Client acknowledges that the Supplier may cease developing the Software at any time without liability to the Client or any third Party.

3.6 Feedback

Following a request by Supplier, the Client must provide Supplier with feedback regarding the Licensed Units, including any defects and potential improvements.

4 Intellectual Property

4.1 No transfer

The Client agrees that the Software, Documentation and related Intellectual Property remain the sole property of Supplier, and acknowledges that it has not acquired any right, title or interest in the Software, Documentation or any Intellectual Property other than as expressly set out in this Agreement.

4.2 Disclosure by Client

The Client must disclose all Improvements to Supplier promptly upon creation.

4.3 Ownership and Licence Improvements

Supplier owns all Improvements

All Improvements will vest in Supplier upon creation. All Improvements are automatically included in the Software and licensed to the Client on the terms of this Agreement with effect from creation. Upon request, the Client will do all things necessary to effect this clause 4.3.

4.4 No challenge

- (a) The Client agrees to provide all necessary assistance to Supplier, at Supplier's cost, to protect or enforce the Intellectual Property.

- (b) The Client must not directly or indirectly engage in any conduct which may endanger the capacity of any Intellectual Property, including the Improvements, to be protected or challenge its ownership or validity.
- (c) If a claim is made alleging that the Software (or use of the Software) infringes any intellectual property rights or moral rights of any person, the Client must:
 - (i) promptly notify Supplier, and
 - (ii) assist and act at all times in accordance with the reasonable instructions of Supplier, in relation to the claim and any consequent investigations, negotiations, settlement and dispute resolution proceedings.

5 Confidential Information

5.1 Permitted use

A Party may use and disclose the other Party's Confidential Information solely to the extent necessary for the Licensed Use, or as required by law.

5.2 Obligations of confidentiality

Subject to clause 5.1, the Parties must:

- (a) not use, and ensure that its employees and contractors do not use, the Confidential Information of the other Party for any purpose other than to comply with its obligations and exercise its rights under this Agreement;
- (b) take all reasonable steps to maintain the confidential nature of the Confidential Information;
- (c) not disclose any of the other Party's Confidential Information to any person other than those of its employees and contractors who require access to the Confidential Information for a purpose authorised under this Agreement, who are aware of the requirements of this Agreement, and who are bound by an enforceable obligation of confidentiality; and
- (d) destroy all documents and other materials in whatever form in its possession, power or control which contain or refer to any Confidential Information of the other Party, on the earlier of expiry or termination of this Agreement, demand by the other Party or such time that the information is no longer required to comply with the terms of this Agreement.

5.3 Acknowledgement

The Client acknowledges that Supplier would be irreparably harmed by the unauthorised disclosure of its Confidential Information, and that monetary damages would be inadequate to remedy the actual or threatened disclosure of the Confidential Information and that injunctive relief may be necessary.

6 Warranties and liability

6.1 Mutual warranties

Each Party warrants to the other that it has the right and authority to enter into this Agreement and that this Agreement will be legally binding on it.

6.2 Acknowledgement by Client

The Client acknowledges and agrees that:

- (a) the Software may not be in final form or fully functional and may contain Errors, design flaws or other problems which cannot or will not be corrected by Supplier; and

- (b) the Software and its use may result in unexpected results, loss of data, project delays or other unpredictable loss or damage to the Client.

6.3 No warranties by Supplier

Supplier excludes from this Agreement all conditions, warranties and terms implied by statute, general law or custom, except those that cannot be excluded in law (**Non-excludable Conditions**) such as certain warranties under the *Competition and Consumer Act 2010* (Cth).

6.4 Non-excludable liability

- (a) Nothing in this Agreement is to be read as excluding, restricting or modifying the application of any legislation which by law cannot be excluded, restricted or modified.
- (b) Subject to clause 6.4(a), any representation, warranty, condition or undertaking which, but for this clause, would be implied in this Agreement by law is excluded.
- (c) To the extent permitted by law, the liability of Supplier for any claim arising directly or indirectly from a breach of any Non-excludable Condition implied by statute is limited, at the option of Supplier, to one or more of the following:
 - (i) supply, repair or replace the Software; or
 - (ii) pay the cost of supplying, repairing or replacing the Software; and
 - (iii) the supplying of the services again; or
 - (iv) payment of the cost of having the services supplied again.
- (d) Subject to clause 6.4(c), the total liability of Supplier to the Client otherwise in connection with this Agreement for loss or damage of any kind whether arising in contract, tort (including negligence), equity, under statute or otherwise is limited to the amount equivalent to the Service Fees paid by the Client.

7 Indemnity

7.1 Indemnity

- (a) In no event is Supplier liable for any special, incidental, indirect or consequential damages, including damages for loss of business profits, business interruption and loss of information which may arise as a result of the use of the Software by the Client.
- (b) The Client shall at all times indemnify and hold harmless Supplier and its officers, employees, contractors and agents (**those indemnified**) from and against any loss (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by any of those indemnified arising from any proceedings against those indemnified where such loss or liability was caused by:
 - (i) a breach by the Client of its obligations under this Agreement; or
 - (ii) any wilful, unlawful or negligent act or omission of the Client.

8 Media Releases and interviews

- 8.1 Media releases, exhibitions, advertising, interviews or any reference of any kind, whether or not using any name or any trademarks or other signs of the Supplier, or regarding this Agreement or the Software, may not be made by the Client without the prior written consent of the Supplier, which may be withheld by the Supplier at its discretion.
- 8.2 The Supplier may make references to the fact that it provides the Software to the Client and may otherwise associate its name or services with the Client.

9 Termination

9.1 Term

Subject to clause 9.2, this Agreement commences on the Commencement Date and continues in force until the Expiration Date.

9.2 Termination

Either Party may terminate this Agreement immediately by written notice if the other Party commits a material breach of this Agreement which it fails to correct within 30 days of being notified of the breach, or if the other Party becomes the subject of any insolvency administration.

9.3 Consequences of termination

- (a) If this Agreement expires or is terminated for any reason, Supplier may:
- (i) repossess any copies of the Software, Documentation and material relating to or containing Confidential Information obtained from Supplier in the possession, custody or control of the Client;
 - (ii) retain all Service Fees paid under this Agreement; and
 - (iii) be regarded as discharged from any further obligations under this Agreement.
- (b) Clauses 4, 5, 6, 7, **Error! Reference source not found.**, 1 and 11 and all clauses required to give them effect survive termination of this Agreement.

10 Dispute resolution

10.1 No proceedings

Neither Party may start court, tribunal or arbitration proceedings (except proceedings seeking urgent interlocutory relief) if a dispute arises out this Agreement (**Dispute**), unless it has first complied with this clause 10.

10.2 Dispute resolution

- (a) A Party claiming that a Dispute has arisen must give written notice to the other Party giving details of the Dispute (**Notification**).
- (b) Within 14 days (or any longer period agreed by the parties) of receipt by the other Party of a Notification, persons of sufficient seniority authorised to settle the Dispute on behalf of each Party must attempt in good faith to resolve the Dispute, failing which the Parties must seek to agree on an alternative dispute resolution technique to resolve the Dispute.
- (c) If the Parties fail to agree on the dispute resolution technique to be used within a further 7 days (or any longer period agreed by the parties), the Dispute will be referred to mediation by, and in accordance with the rules of, the Australian Commercial Disputes Centre Limited. The mediation will be conducted in Sydney in the English language.

- (d) The Parties must continue to perform their respective obligations under this Agreement pending the resolution of a Dispute including payment of Service Fees.
- (e) Each Party must bear its own costs of complying with this clause 10.2.

11 General

11.1 Amendment

This Agreement may be altered only in writing signed by each Party.

11.2 Waiver

A Party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the Party giving the waiver.

11.3 Approvals and consents

Except where this Agreement expressly states otherwise, a Party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.

11.4 Further action

Each Party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Agreement and the transactions contemplated by it.

11.5 Assignment

Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party which may not be unreasonably withheld. Any assignment will only be effective if it is made by way of a deed of assignment and assumption between the assigning Party, the continuing Party and the incoming Party.

11.6 Severability

A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the term of this Agreement continue in force.

11.7 Survival

Any indemnity or any obligation of confidence under this Agreement is independent and survives termination of this Agreement. Any other term by its nature intended to survive termination of this Agreement survives termination of this Agreement.

11.8 Entire Agreement

This Agreement consists of these General Terms, the Details and any annexures or schedules to this Agreement and constitutes the entire Agreement of the Parties about its subject matter and supersedes all previous Agreements, understandings and negotiations on the subject matter.

11.9 Inconsistency

If there is an Inconsistency between any provision of the Details, the General Terms, a schedule or an annexure of this Agreement, then the Details prevail over the General Terms, the General Terms prevail over any schedule, and a schedule will prevail over any annexure, each only to the extent of the Inconsistency.

11.10 Relationship

Except where this Agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

11.11 Remedies cumulative

Unless otherwise stated, the rights, powers and remedies provided in this Agreement are in addition to and not exclusive of the rights, powers and remedies given by law independently of this Agreement.

11.12 Force majeure

If force majeure prevents a Party from fully or partly performing any obligation under this Agreement (except an obligation to pay money), the affected Party's obligation to perform that obligation is suspended while the force majeure continues.

11.13 Counterparts

This Agreement may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

11.14 Governing law

This Agreement is governed by the law of the State of New South Wales and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

12 Interpretation

12.1 Definitions

The following words have these meanings in this Agreement unless the contrary intention appears:

Affiliate means any person who, directly or indirectly, Controls, is Controlled by or is under common Control with a Party.

Claim means any claim, notice, demand, action, proceeding, litigation, investigation or judgment whether based in contract, tort, statute or otherwise.

Commencement Date means the commencement date specified in the Schedule.

Confidential Information means all information including but not limited to information relating to the Software and information acquired in confidence by the Client from Supplier and includes all technical, proprietary and operational information, drawings, techniques, processes, know-how, methods of working, data and specifications, trade secrets, Intellectual Property and other commercially valuable information of any kind but does not include information which:

- (a) at the time of disclosure is already in the public domain;
- (b) becomes available to the public by any means other than breach of this Agreement;
- (c) is received by the Client from an independent third Party who is lawfully in possession and has the power and authority to disclose the information; or
- (d) is required to be disclosed by law.

Control has the meaning given to it in section 50AA of the *Corporations Act 2001* (Cth).

Details means the section of this Agreement headed "Details".

Documentation means any operating manuals, documentation and other materials about the operation, installation, use, care, service, marketing and maintenance of the Software (whether in hard copy or electronic form) as modified and adapted from time to time, including any Documentation provided with any Update.

Software means the Software Code and includes the Software as modified by Supplier and provided to the Client together with any Improvements.

Software Code means the source code version of the Software owned or licensed by Supplier existing as at the Commencement Date as described in the Schedule and made available to the Client under this Agreement, and includes any Updates.

Enrolment means the registration of one user.

Error means any defect or malfunction which causes the operation of the Software to deviate from any specification, expected functionality or performance.

Expiration Date means the expiration date specified in the Schedule.

External Administrator means an administrator, receiver, receiver and manager, trustee, provisional liquidator, liquidator or any other person (however described) holding or appointed to an analogous office or acting or purporting to act in an analogous capacity.

Force Majeure means any act, event or cause (other than lack of funds) which is beyond the reasonable control of the affected Party causing that Party to be unable to observe or perform on time an obligation under this Agreement.

GST means the tax imposed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended or replaced from time to time.

Improvement means any development, modification, adaptation or enhancement of the Software or any Intellectual Property rights created by or on behalf of the Client or its Affiliates (whether in breach of this Agreement or otherwise) and includes all Intellectual Property rights in the Improvements, including copyright.

Insolvency Event means any one or combination of the following or any event or circumstance analogous to the following:

- (a) a Party disposes of the whole or any part of its, operations or business other than in the ordinary course of business;
- (b) a Party ceases to carry on business;
- (c) a Party ceases to be able to pay its debts as they become due;
- (d) any step is taken by a mortgagee to take possession or dispose of the whole or any part of a Party's assets, operations or business;
- (e) any step is taken to enter into any arrangement between a Party and its creditors; or
- (f) any step is taken to appoint an External Administrator.

Intellectual Property means all rights in the Software and documentation, including, without limitation:

- (a) the various rights and property conferred under statute, common law and equity in and in relation to patents, inventions, designs, copyright, trade marks, trade names, business names, domain names, corporate names, logos, get up, circuit layouts, know-how, trade secrets and confidential information and the right to have trade secrets and confidential information kept confidential and all other intellectual property rights as defined by Article 2 of the World Intellectual Property Organisation Convention of July 1967,

and includes:

- (b) all applications for registration, extension, renewal or otherwise in respect of the rights and property referred to in paragraph (a) of this definition, and
- (c) all rights of action in respect of the rights and property referred to in paragraph (a) of this definition.

Law includes any constitution or provision, treaty, decree, convention, statute, Act, regulation, rule, ordinance, proclamation, subordinate legislation, delegated legislation, by-law, judgement, rule of common law or equity, rule, ruling or guideline by a competent

entity exercising jurisdiction in the relevant matter, including a rule, ruling, by-law, town planning scheme or guideline of any governmental agency.

Liabilities mean all liabilities, losses, damages, outgoings, costs and expenses of whatever description.

Licensed Units means the Software and the Documentation.

Licensed Use means the use described in clause 1.1.

Party means a party to this Agreement and its respective successors and permitted assigns.

Permitted Number means the number of Permitted Users specified in the Schedule.

Schedule means the schedule attached to this Agreement.

Service Fees means the service fees specified in the Schedule.

Term means the term of this Agreement specified in clause 9.1.

Updates means any modifications, enhancements, improvements or revisions to the Software, including updates to improve its performance or correct Errors, made available to the Client by Supplier from time to time

Interpretation

In this Agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning ;
- (c) a reference to a clause or schedule is to a clause of, or schedule to, this Agreement, and a reference to this Agreement includes any schedule;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to dollars, \$ is to Australian currency;
- (f) a reference to a Party is to a Party to this Agreement, and a reference to a Party to a document includes the Party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (j) any Agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (k) any Agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (l) a rule of construction does not apply to the disadvantage of a Party because the Party was responsible for the preparation of this Agreement or any part of it.

12.2 Headings

Headings are for ease of reference only and do not affect interpretation.