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**END USER LICENSE AGREEMENT for  
ACCESSIBLE LITERACY LEARNING (ALL) SOFTWARE**

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Mayer-Johnson (as defined in Section 1 hereof) and its partners own all intellectual property in the Software. Mayer-Johnson permits You to Use the Software only in accordance with the terms of this Agreement.

**SECTION 1 – DEFINITIONS**

- a) “Agreement” means this END USER LICENSE AGREEMENT and all terms and conditions contained herein.
- b) “You” or “Your” means the person, company, organization, or other entity that has licensed the Software.
- c) “Software” means (a) all of the contents of the files, Internet- based service components, or other media with which this Agreement is provided, including but not limited to (i) related explanatory written materials or files (“Documentation”); (b) upgrades, modified versions, supplements, add-on components, updates, additions, and copies of the Software, if any, licensed to You by Mayer-Johnson (collectively, “Updates”); and (c) Internet-based services used in association with this Software.
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- e) “Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions.
- f) “Mayer-Johnson” means Mayer-Johnson, LLC, a Tobii Dynavox company, with its principal place of business at 2100 Wharton Street, Suite 400, Pittsburgh, PA 15203.

- g) “Proceedings” means any claims, demands, actions, causes of action, suits, litigation, disputes, orders, writs, injunctions, judgments, or other proceedings.

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#### SECTION 6 – LIMITATIONS, LIMITED WARRANTY, LIMITATION OF REMEDIES, INDEMNIFICATION

##### LIMITED WARRANTY

To the original buyer only, Mayer-Johnson warrants for the period of ninety (90) days from the date of delivery of the Software to You as evidenced by a copy of Your receipt, or until the Software is modified by You, whichever period is shorter, that: (a) The Software, unless modified by You or any third party, will perform substantially the functions described in the documentation provided with the Software by Mayer-Johnson; and (b) the media on which the Software is furnished will be free from defects in materials and workmanship under normal use. Mayer-Johnson does not warrant that the Software will meet Your requirements, that the operation of the Software will be uninterrupted or error-free, or that all Software errors will be corrected. Mayer-Johnson is neither responsible for problems caused by changes in the operating characteristics of Computer hardware or Computer operating systems that are made after the release of the Software nor for problems resulting from the interaction of the Software with non-Mayer-Johnson software. Mayer-Johnson will have no responsibility to replace or refund the purchase price of the media damaged as a result of accident, abuse, misapplication, or unauthorized modification.

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In order to make a claim under the warranty provided for in this Agreement, You must return the defective Software with proof of purchase to Mayer-Johnson or an authorized dealer, postage prepaid or electronically, during the ninety (90)-day warranty period. First, Mayer-Johnson will seek to replace any defective media or files or provide corrected Software or Documentation, as the case may be. If, in Mayer-Johnson's sole discretion, it is unable to replace defective media or Mayer-Johnson is unable to provide corrected Software or corrected Documentation (as the case may be), Mayer-Johnson will, at its sole and exclusive option, either replace the Software with a functionally equivalent program at no charge to You or refund the purchase price of the Software. These are Your sole and exclusive remedies for any claim regarding this Agreement, the Software, the Upgrades or the Documentation, including, without limitation, any claim of breach of warranty and are in lieu of all other rights and remedies regarding this Agreement, the Software, the Upgrades and the Documentation, whether arising at law, in equity, in tort, by contract, or otherwise.

#### LIMITATION OF LIABILITY, NO LIABILITY FOR CONSEQUENTIAL DAMAGES

REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE, IN NO EVENT WILL MAYER-JOHNSON BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY, FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, DIRECT, INDIRECT, PUNITIVE, STATUTORY, EXEMPLARY,

LIQUIDATED OR SIMILAR DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOSS OF USE, LOST PROFITS OR LOST, DAMAGED OR CORRUPTED DATA (A) ARISING OUT OF THE USE, RELIANCE UPON, OR INABILITY TO USE THE SOFTWARE OR ANY DATA SUPPLIED THEREWITH OR (B) ARISING IN ANY MANNER PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT, THE SOFTWARE, THE UPGRADES AND THE DOCUMENTATION EVEN IF MAYER-JOHNSON OR AN AUTHORIZED MAYER-JOHNSON DEALER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR IF SUCH DAMAGES ARE FORESEEABLE, OR FOR ANY CLAIM BY ANY OTHER PARTY. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN NO CASE WILL MAYER-JOHNSON'S LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE OF THE SOFTWARE. THIS LIMITATION WILL APPLY EVEN IN THE EVENT OF A FUNDAMENTAL OR MATERIAL BREACH OR A BREACH OF THE FUNDAMENTAL OR MATERIAL TERMS OF THIS AGREEMENT BY MAYER-JOHNSON.

#### INDEMNIFICATION

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD MAYER-JOHNSON, ITS PARENT, SUBSIDIARIES, AND AFFILIATED ENTITIES, AND THE OFFICERS, DIRECTORS, MEMBERS, MANAGERS, PARTNERS, EMPLOYEES, AGENTS, REPRESENTATIVES, LICENSORS, AND PARTNERS OF EACH OF THEM HARMLESS FROM AND AGAINST ANY AND ALL AMOUNTS, LOSSES, LIABILITIES, DEFICIENCIES, DAMAGES, FINES, PENALTIES, CLAIMS, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ALL FINES, PENALTIES AND OTHER AMOUNTS PAID PURSUANT TO A JUDGMENT, COMPROMISE, OR SETTLEMENT), COURT COSTS AND REASONABLE LEGAL, ACCOUNTING AND RELATED FEES INCURRED BY SUCH PARTIES EITHER DIRECTLY OR AS A RESULT OF ANY PROCEEDINGS IN CONNECTION WITH OR ARISING OUT OF YOUR (1) VIOLATION OR BREACH OF ANY TERM OF THIS AGREEMENT OR ANY APPLICABLE LAW OR REGULATION, WHETHER OR NOT REFERENCED IN THIS AGREEMENT, OR (2) VIOLATION OF ANY RIGHT OF ANY THIRD PARTY, OR (3) USE OR MISUSE OF THE SOFTWARE.

This entire Section 6 will survive the termination of the Agreement, howsoever caused, but this will not imply or create any continued right to Use the Software after termination of this Agreement.

#### SECTION 7 – ADDITIONAL PROVISIONS

You may not undertake, cause, permit or authorize the modification, creation of derivative works, translation, reverse engineering, decompiling, or disassembly or hacking of the Software or any part thereof. Any transfer of the Software in accordance with the terms of this Agreement must include the most recent update and all prior versions.

You agree that Mayer-Johnson and its affiliates may collect and use technical information gathered as part of the product support services provided to You, if any, related to the Software. Mayer-Johnson may use this information solely to improve our products or to provide customized services

or technologies to You and will not disclose this information in a form that personally identifies You.

The Software may be subject to international rules that govern the export of software. You will comply with all applicable international and national laws that apply to the Software as well as end-user, end-use and destination restrictions issued by national governments.

## BINDING ARBITRATION

By Using the Software, You agree with Mayer-Johnson, that, except as set forth below under “Exceptions to Arbitration,” any Proceedings by either You or Mayer-Johnson against the other arising pursuant to or in connection with this Agreement, whether related to the Software or otherwise, including the enforceability of this arbitration agreement, will be resolved by binding arbitration. This arbitration agreement is subject to the Federal Arbitration Act (9 U.S.C. §§ 1-16).

IN ABSENCE OF THIS ARBITRATION AGREEMENT, YOU AND WE MAY OTHERWISE HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE CLAIMS ARISING PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT THROUGH A COURT, AND/OR TO PARTICIPATE OR BE REPRESENTED IN COURT BY OTHERS, BUT ALL CLAIMS ARISING PURSUANT TO OR IN CONNECTION WITH THIS AGREEMENT, EXCEPT AS SET FORTH BELOW UNDER “EXCEPTIONS TO ARBITRATION,” MUST NOW BE RESOLVED THROUGH ARBITRATION.

The arbitration will be commenced and conducted under the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) and, where appropriate, the AAA’s Supplementary Procedures for Consumer Related Disputes (“AAA Consumer Rules”), both of which are available at the AAA website [www.adr.org](http://www.adr.org). You agree that the site of the arbitration will be within Allegheny County, Pennsylvania, and Mayer-Johnson and You further agree that any and all proceedings will take place in Allegheny County, Pennsylvania. Your arbitration fees and your share of arbitrator compensation will be governed by the AAA Rules and, where appropriate, limited by the AAA Consumer Rules. The arbitration may be conducted in person, through the submission of documents, by telephone or online. The arbitrator or panel of arbitrators will make a decision in writing, but need not provide a statement of reasons unless requested by a party. The arbitrator(s) must follow applicable law, and any award may be challenged if the arbitrator fails to do so. Any award of the arbitrator may be entered and reduced to judgment in any court of competent jurisdiction. Except as otherwise provided in this Agreement, You and Mayer-Johnson may litigate in court to compel arbitration, stay proceeding pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator(s).

Restrictions. You and Mayer-Johnson agree that any arbitration will be limited to the Proceedings involving Mayer-Johnson and You individually. To the full extent permitted by law, (1) no arbitration will be joined with any other; (2) there is no right or authority for any Proceedings to be arbitrated on a class-action basis or to utilize class action procedures; and (3) there is no right or authority for any Proceedings to be brought in a purported representative capacity on behalf of the general public or any other persons.

Exceptions to Arbitration. You and Mayer-Johnson agree that the following Proceedings are not subject to the above provisions concerning binding arbitration: (1) any Proceedings to enforce or protect, or concerning the validity of, any of Your or Mayer-Johnson's intellectual property rights; (2) any Proceedings related to, or arising from, allegations of theft, piracy, invasion of privacy or unauthorized use of the Software, Upgrades, or Documentation; (3) any claim for injunctive relief, and (4) any actual or threatened breach by you or Sections 4, 5, 6, or the prohibitions on reverse engineering and other similar activities in this Section 7.

You agree that your obligations under Sections 4, 5, 6, and the prohibitions on reverse engineering and other similar activities in this Section 7 are necessary and reasonable to protect the intellectual property rights of Mayer-Johnson, and You expressly agree that monetary damages will be inadequate compensation for any breach by You of those Sections. Therefore, in addition to any other remedies that may be available at law, in equity or otherwise, Mayer-Johnson will be entitled to obtain injunctive relief, including, without limitation, permanent or preliminary injunctions, against any threatened or actual breach of Sections 4, 5, or 6 or the prohibitions on reverse engineering and other similar activities in this Section 7 (or the continuation of any such breach) in a court of competent jurisdiction without the necessity of proving the probability of irreparable injury or the actual amount of monetary damages. This provision will not, however, be construed as a waiver of any of the rights that Mayer-Johnson may otherwise have for damages resulting from the breaches of those Sections at law or in equity. **YOU HEREBY AGREE AND ACKNOWLEDGE THAT ANY STATE OR FEDERAL COURT SITTING IN PITTSBURGH, PENNSYLVANIA, USA WILL BE A COURT OF COMPETENT JURISDICTION WITH RESPECT TO ANY INJUNCTIVE RELIEF SOUGHT BY MAYER-JOHNSON UNDER THIS PROVISION. YOU AGREE THAT VENUE IS PROPER IN SUCH FORUM AND HEREBY WAIVE ANY DEFENSE OF INCONVENIENCE OF FORUM TO THE MAINTENANCE OF ANY ACTION FOR INJUNCTIVE RELIEF SO BROUGHT AND WAIVE ANY BOND, SURETY OR OTHER SECURITY THAT MIGHT BE REQUIRED OF MAYER-JOHNSON WITH RESPECT THERETO.**

This provision regarding "Binding Arbitration" will survive the termination of the Agreement, howsoever caused, but this will not imply or create any continued right to Use the Software after termination of this Agreement.

#### CHOICE OF LAW

The validity and interpretation of this Agreement and any and all Proceedings arising under, pursuant to, or in connection with the negotiation, execution, performance, or termination hereof will be governed by and construed in accordance with the internal laws of the Commonwealth of Pennsylvania, without reference to any conflicts of laws principles.

#### ENTIRE AGREEMENT; AMENDMENT; ENFORCEABILITY

This Agreement will not prejudice the statutory rights of any party dealing as a consumer. This Agreement is the entire agreement between Mayer-Johnson and You relating to the Software and it supersedes any prior representations, discussions, undertakings, communications or advertising related to the Software, whether written or oral whether express or implied. This Agreement may

only be modified by a written document signed by an authorized officer of Mayer-Johnson. Updates may be licensed to You by Mayer-Johnson with additional or different terms. If any part of this Agreement is found to be void and/or unenforceable, it will not affect the validity of the balance of this Agreement, which will remain valid and enforceable according to its terms.

## CAPTIONS AND SECTION NUMBERS

The captions and section numbers appearing anywhere in this Agreement are inserted only as a matter of convenience for reference and in no way define, limit, construe or describe the scope, meaning or intent of this Agreement or of any such provision or clause of this Agreement nor in any other way affect this Agreement or any part thereof.

## TERMINATION

Without prejudice to any other rights that it may have at law, in equity, or otherwise, Mayer-Johnson may terminate the license granted under this Agreement if, in its sole discretion, You fail to comply with the terms and conditions of this Agreement. In such event, You must destroy all copies of the Software, Upgrades and all of their component parts, and you will have no further right to use any Software, Upgrades, or Documentation.

## NEW VERSIONS

Mayer-Johnson reserves the right to change this Agreement at any time by publishing the revised Agreement on the Mayer-Johnson Website. The revised Agreement will become effective within thirty (30) days of such publication, unless You expressly accept the revised Agreement earlier by clicking on the accept button. Your express acceptance or Your continued use of the Software after expiry of the notice period of thirty (30) days will constitute Your acceptance to be bound by the terms and conditions of the revised Agreement. You can find the latest version of this Agreement at **[www.mayer-johnson.com](http://www.mayer-johnson.com)**.

## COMPLIANCE WITH LICENSES

If You are a business or organization, You agree that upon request from Mayer-Johnson or an authorized Mayer-Johnson representative, You will within thirty (30) days fully document and certify that use of any and all Software at the time of the request is in conformity with Your valid licenses from Mayer-Johnson.

## WAIVER

Compliance with any agreement, obligation, or covenant set forth herein cannot be waived, except in a writing by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any waiver on the part of any party of any such right, power or privilege, or any single or partial exercise of any such right, power or privilege, preclude any further exercise thereof or the exercise of any other such right, power or privilege.

## INUREMENT; ASSIGNMENT

This Agreement will inure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns. Except in compliance with the terms and conditions hereof, You may not assign all or any portion of this Agreement, and any purported assignment in violation hereof will be null and void.

PLEASE CLICK ON THE APPROPRIATE BUTTON BELOW:

By clicking the “ACCEPT” button You expressly acknowledge that You have read this Agreement and understand the rights, obligations, terms and conditions set forth herein and consent to be bound by its terms and conditions and agree that upon installing the Software, You will use it in accordance with the above terms and conditions.

By clicking the “CANCEL” button, You do not agree to the above terms and conditions and will be directed back to the previous page.