



NUTRISTEP® LICENCE

TODDLER AND PRESCHOOL NUTRISTEP® LICENSE

IMPORTANT - PLEASE READ CAREFULLY: This licence (“Licence”) is a legally binding agreement between you (“You”) and **Janis Randall Simpson** (“Owner”) for the Nutrition Screening Tool for Toddlers and Preschoolers (“Toddler **NutriSTEP®** and Preschool **NutriSTEP®**”).

IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENCE, YOU ARE NOT AUTHORIZED TO USE THE NUTRISTEP® TOOLS.

TERMS OF USE

1. PARTIES

This is an agreement between the Owner and You and all persons You represent, including any natural persons and any type of incorporated or unincorporated entity. By agreeing to the terms of this Licence, You indicate that You agree, and all persons You represent agree, to be bound by the terms of this Licence and You represent and warrant that You have the legal authority to enter into this Licence on behalf of Yourself and all persons You represent.

2. PRODUCT

This Licence is for the Toddler NutriSTEP® and/or Preschool NutriSTEP® screening tools, including any related documentation and any translations made available by the Owner (together, “Toddler **NutriSTEP®** and Preschool **NutriSTEP®**”).

3. OWNERSHIP OF NUTRISTEP®

You acknowledge that Toddler NutriSTEP® is owned by Public Health Sudbury & Districts and Lee Rysdale and Drs. Janis Randall Simpson and Heather Keller and Preschool NutriSTEP® is owned by Public Health Sudbury & Districts (“**PHSD**”) and Drs. Janis Randall Simpson and Heather Keller (together, the “**Creators**”) and is being provided to You by the Owner under licence from the Creators. Toddler NutriSTEP® and Preschool NutriSTEP® have been developed as part of research conducted at the University of Guelph and the PHSD. The Owner does not grant You any ownership interest in Toddler NutriSTEP® and/or Preschool NutriSTEP® and only licenses You to use Toddler NutriSTEP® and/or Preschool NutriSTEP® in accordance

with the terms of this Licence. No rights, title or interest in or to any official mark, trade-mark, service mark, logo or trade name of PHSD or the Creators is granted to You under this Licence.

4. AUTHORIZED USES

Provided You comply with all the terms and conditions of this Licence, the Owner grants You a non-exclusive, non-transferable, royalty-free license to use, copy and distribute Toddler NutriSTEP® and/or Preschool NutriSTEP® on a non-commercial basis to screen for the nutritional risk of preschool children.

5. AUTHORIZED COPIES

You are permitted unlimited use of Toddler NutriSTEP® and/or Preschool NutriSTEP® in a single setting or in multiple sites. If You wish to incorporate Toddler NutriSTEP® and/or Preschool NutriSTEP® into an electronic medium, you must obtain a further licence from the Owner and the University of Guelph.

6. PROHIBITED USES

You must not:

- a. sell, sublicense, rent, loan or otherwise distribute copies of Toddler NutriSTEP® and/or Preschool NutriSTEP® for commercial purposes;
- b. modify, adapt, translate or otherwise change Toddler NutriSTEP® and/or Preschool NutriSTEP®; or
- c. remove or obscure any copyright, trade-mark or other proprietary notices from the Toddler NutriSTEP® and/or Preschool NutriSTEP®.

7. LICENCE FEE

There is no Licence Fee for use of Toddler NutriSTEP® and/or Preschool NutriSTEP® in a single setting or in multiple sites. If You wish to incorporate Toddler NutriSTEP® and/or Preschool NutriSTEP® into an electronic medium, a Licence Fee will be negotiated among You, the Owner, the University of Guelph, and the Creators.

8. DELIVERY OF NUTRISTEP®

By accessing the Toddler NutriSTEP® and/or Preschool NutriSTEP® questionnaires on this website, it is assumed that you have read and agree to the terms of this Agreement.

9. PUBLICATION

You have the right to publish research and other articles about Toddler NutriSTEP® and/or Preschool NutriSTEP® or based on data obtained using Toddler NutriSTEP® and/or Preschool NutriSTEP® but You must not publish any portion of Toddler NutriSTEP® and/or Preschool NutriSTEP® in the publication. If You use or reference Toddler NutriSTEP® and/or Preschool NutriSTEP® or any data generated acquired through use of Toddler NutriSTEP® and/or Preschool NutriSTEP® in any publication (including scientific publications, electronic documents and websites), You must include the following statement in all publications: "The Toddler NutriSTEP® assessment tool is owned by the Public Health Sudbury & Districts and Lee Rysdale, Drs. Heather Keller and Janis Randall Simpson. The Preschool NutriSTEP® assessment tool is owned by the Public Health Sudbury & Districts and Drs. Heather Keller and

Janis Randall Simpson. Use of the Toddler NutriSTEP® and/or Preschool NutriSTEP® assessment tool was made under license from the Creators.”

10. SHARING INFORMATION

The Creators may contact You to obtain information about the scope and nature of your use of Toddler NutriSTEP® and/or Preschool NutriSTEP®. You agree to provide basic information about your use, subject to any confidentiality or contractual obligations, for research purposes.

11. USE OF TRADE-MARKS

You have no right to use the names, “Toddler NutriSTEP® and/or Preschool NutriSTEP®” or any logos associated with these names except as is incidental to the purposes of this Licence. All such names and logos remain the property of the PHSD.

12. DISCLAIMER OF WARRANTIES

Toddler NutriSTEP® and Preschool NutriSTEP® have been developed as part of research conducted at the University of Guelph and the PHSD and is experimental in nature. THE OWNER IS PROVIDING YOU WITH NUTRISTEP® “AS IS” WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED.

THE OWNER WARRANTS THAT IT HAS FULL AUTHORITY TO ENTER INTO THIS LICENSE BUT OTHERWISE DISCLAIMS ALL OTHER WARRANTIES. THE OWNER EXPRESSLY DISCLAIMS AND EXCLUDES ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES THAT TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP® IS MERCHANTIBLE, ACCURATE OR FIT FOR A PARTICULAR PURPOSE. THE OWNER DOES NOT WARRANT THAT TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP® WILL MEET YOUR REQUIREMENTS OR THAT USE OF TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP® WILL PRODUCE A DESIRED RESULT. THE OWNER DOES NOT WARRANT THAT THE USE OF TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP® WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADE-MARK OR OTHER RIGHTS.

13. ASSUMPTION OF RISK

YOU ASSUME ALL RISK AND RESPONSIBILITY FOR THE SELECTION, INSTALLATION, USE, QUALITY, PERFORMANCE, AND RESULTS OBTAINED FROM TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP®.

14. LIMITATION OF LIABILITY

IN NO EVENT WILL THE OWNER BE LIABLE TO YOU OR YOUR AUTHORIZED USERS, OR ANY OTHER PERSON OR ENTITY, FOR ANY DAMAGES OF ANY KIND, INCLUDING LOST PROFITS, DATA, BUSINESS INTERRUPTION OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH NUTRISTEP®, ITS USE OR PERFORMANCE, OR THIS LICENCE, EVEN IF THE OWNER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE OWNER’S LIABILITY TO YOU FOR ANY CLAIM ARISING FROM TODDLER NUTRISTEP® AND/OR PRESCHOOL NUTRISTEP® OR THIS LICENCE EXCEED THE AMOUNT PAID BY YOU TO THE OWNER UNDER THIS LICENCE.

15. INDEMNITY

IN CONSIDERATION FOR THE BENEFITS OBTAINED UNDER THIS LICENCE, YOU WILL INDEMNIFY AND HOLD HARMLESS THE OWNER AGAINST ANY CLAIMS, LIABILITY, LOSS, DAMAGE, COSTS OR EXPENSES, INCLUDING REASONABLE LEGAL COSTS, RESULTING FROM YOUR POSSESSION AND OR USE OF NUTRISTEP®.

16. SUPPORT

The Owner will not and has no obligation to provide you with any support in relation to Toddler NutriSTEP® and/or Preschool NutriSTEP®. Any questions relating to Toddler NutriSTEP® and/or Preschool NutriSTEP® should be directed to the Creators at: rjanis@uoguelph.ca.

17. AUDIT

During the term of this Licence, and for a term of one year after termination, the Owner may, upon reasonable notice, enter Your premises to perform reasonable audit and inspection procedures to confirm that You are complying with the terms and conditions of this Licence. You must cooperate in any such inquiry.

18. TERM AND TERMINATION

This Licence commences on the date Toddler NutriSTEP® and/or Preschool NutriSTEP® is electronically delivered to You and terminates if you fail to comply with any of the terms of this Licence, in which case this Licence automatically terminates with immediate effect without notice from the Owner (Janis Randall Simpson). Upon termination of this Licence, Your rights to use Toddler NutriSTEP® and/or Preschool NutriSTEP® terminate and You must immediately stop using Toddler NutriSTEP® and/or Preschool NutriSTEP® and in the case of termination for breach, You must return to the Owner all copies of Toddler NutriSTEP® and/or Preschool NutriSTEP® in Your possession or control.

19. REPRESENTATION OF AUTHORITY

You represent and warrant that You possess the legal authority to enter into this Licence and that You will be financially responsible for Your use of the Toddler NutriSTEP® and/or Preschool NutriSTEP®. You agree to be responsible for all costs, charges and taxes arising out of Your use of Toddler NutriSTEP® and/or Preschool NutriSTEP®.

20. NO ASSIGNMENT

You must not assign, sublicense or otherwise transfer this Licence or any rights granted by this Licence without the prior written consent of the Owner and any attempt to do so without the consent of the Owner will be void.

21. FORCE MAJEURE

Neither party to this Licence will be liable for any delay or failure to perform their respective obligations under this Licence if such delay or failure arises from any cause beyond the reasonable control of the party ('**Force Majeure**') provided such party gives the other party written notice of the Force Majeure. Force Majeure includes, without limitation: labour disputes, strikes, other labour or industrial disturbances and any act of God, fire, natural disaster, power failures, accidents, act of government, shortages of materials or supplies and failure of

contractors to perform. If a party is temporarily excused from performing its obligations under this Licence because of Force Majeure, it must promptly resume performance when such Force Majeure is cured or removed.

22. COMPLETE AGREEMENT

This Licence contains the entire agreement between You and the Owner relating to Toddler NutriSTEP® and/or Preschool NutriSTEP®, and supersedes any prior understandings, arrangements, commitments, communications or amendments, oral or written, between You and the Owner with respect to Toddler NutriSTEP® and/or Preschool NutriSTEP®. No amendments or modifications to this Licence are effective unless you have been in contact with Janis Randall Simpson (rjanis@uoguelph.ca). You should print out a copy of this licence and retain it for Your records.

23. SEVERABILITY

If any provision of this Licence becomes void, invalid, illegal or unenforceable, the remaining provisions will not be affected and will continue in effect as though the unenforceable provision(s) were deleted.

24. WAIVER

If either party omits or delays to require the other party to punctually fulfill any of its obligations under this Licence, this omission or delay will not operate as a waiver by that party of its rights under this Agreement.

25. SURVIVAL

Clauses 3 (Ownership), 9 (Publication), 11 (Disclaimer of Warranties), 12 (Assumption of Risk), 13 (Limitation of Liability), 14 (Indemnity), 16 (AUDIT) and 18 – 25 (General provisions) survive termination of this Licence.

26. GOVERNING LAW

This Agreement will be interpreted in accordance with the laws of the Province of Ontario, Canada. Any suit, action, or proceeding arising out of or relating to this Licence must be brought in Toronto, Ontario and You submit to the exclusive jurisdiction of the Courts of Toronto, Ontario. Use of Toddler NutriSTEP® and/or Preschool NutriSTEP® is prohibited in any jurisdiction which does not give effect to the terms of this Licence.

