

POWERED BY VITAL TALK LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this “**Agreement**”) is entered into as of the date of mutual execution (the “**Effective Date**”) by and between VitalTalk, a Washington nonprofit corporation (“**VitalTalk**”) and the undersigned below (“**VitalTalk Faculty Member**”) (individually, a “**Party**,” and collectively, the “**Parties**”). In consideration of the mutual terms and conditions hereinafter set forth, the Parties agree as follows:

1. **Definitions.**

- 1.1 **Intellectual Property.** “**Intellectual Property**” means all technology and intellectual property related to VitalTalk’s business operations anywhere in the world, including: published and unpublished materials related to VitalTalk’s business.
- 1.2 **Licensed Property.** “**Licensed Property**” means the Intellectual Property created or owned by VitalTalk specifically, all of the Intellectual Property related to VitalTalk’s business—and products currently under development—including but not limited to the following specific materials: (1) the name and Trademark “VitalTalk” (2) the name and Trademark “Powered by VitalTalk”; and (3) digital and online content for training and operating curriculum including curriculum and associated materials available at faculty.vitaltalk.org (the “**VitalTalk Faculty Member Portal**”).
- 1.3 **Products.** “**Products**” means any educational material, class, website, audio or visual programming, mobile content, and all other online digital, electronic or print products and services owned, operated, or produced by the VitalTalk, its divisions, subsidiaries, and sublicensees.
- 1.4 **Powered by VitalTalk Courses.** A “**Powered by VitalTalk Course**” is any independently organized virtual or face-to-face course where the most current versions of VitalTalk Licensed Property are used to teach communication skills by VitalTalk Faculty Members exclusively to Clinicians (as defined below) in accordance with this Agreement, unless otherwise approved by VitalTalk. “**Clinicians**” include any employee or independent contractor of the Home Institution (as defined below). Furthermore, under no circumstances shall a Powered by VitalTalk Course be advertised to the public or attended by individuals that are not Clinicians.
- 1.5 **Services.** “**Services**” mean any service offerings associated with the Products or performed in conjunction with the Products. Services include but are not limited to Powered by VitalTalk Courses.
- 1.6 **Other Defined Terms.** All other defined terms shall have the meanings ascribed to them in this Agreement.

2. **License.**

- 2.1 **Grant of License.** VitalTalk hereby grants to VitalTalk Faculty Member a limited, revocable, non-transferable, license to the Licensed Property for use anywhere in the world in connection

with the Products and Services limited to providing Powered by VitalTalk Courses (the “**License**”). Notwithstanding the foregoing, such License will be restricted to Powered By VitalTalk Courses offered at VitalTalk Faculty Member’s Home Institution as defined below. “**Home Institutions**” include but are not limited to hospitals, medical centers, or other facilities where VitalTalk Faculty Members are employees or independent contractors.

- 2.2 Prohibited Uses. VitalTalk Faculty Member acknowledges and agrees that it shall not use the Licensed Property in any manner inconsistent with this Agreement including but not limited to: (a) sharing Licensed Property or any VitalTalk Faculty Member’s Adapted Work (as defined below) with any individual or entity that is not a Home Institution, VitalTalk Faculty Member, or eligible Clinician (b) using Licensed Property with other curricula from other providers without clearly branding the material as “Powered by VitalTalk” in accordance with Section 2.4; and (c) using materials described in Section 2.2(b) without first obtaining all necessary rights from other providers and such branding requirement shall not infringe upon or cause VitalTalk Faculty Member to violate any other license.
- 2.3 VitalTalk Faculty Member Adapted Works. Subject to the terms of this Agreement, VitalTalk shall own and hold title to VitalTalk Faculty Member’s “**Adapted Works**” which shall mean (1) derivative work (as defined in 17 U.S.C. §101) that is independently conceived and developed by VitalTalk Faculty Member or its personnel during the term of this Agreement related to the Products or Services or (2) any work based upon the Licensed Property and other pre-existing works, such as a translation, art reproduction, abridgment, condensation, or any other form in which the Licensed Property may be recast, transformed, or adapted. VitalTalk will provide an additional license for Adapted Works to VitalTalk Faculty Member for the duration of this Agreement on the same terms as the License and at no additional cost.
- 2.4 Branding. In accordance with the License granted herein, VitalTalk Faculty Members shall use VitalTalk’s “Powered by VitalTalk” logo on all materials for Powered By VitalTalk Courses, Licensed Property, and/or VitalTalk Faculty Member Adapted Works. Use of third-party logos are permitted so long as there is no confusion of ownership of VitalTalk’s Licensed Property. The “Powered by VitalTalk” logo is available within the “Document Library” of the VitalTalk Faculty Member Portal (see Section 2.5 below).
- 2.5 Licensed Property Access. All Licensed Property shall only be accessible through the VitalTalk Faculty Member Portal or given to VitalTalk Faculty Member by a VitalTalk employee through an event, training, or other method. Use of the VitalTalk Faculty Member Portal shall be governed by the Website’s (www.vitaltalk.org) Terms and Conditions and Privacy Policy.
- 2.6 Reservation of Rights. Use of Licensed Property, and the goodwill associated therewith, shall inure solely to VitalTalk. Except for the License granted hereunder and as otherwise provided herein, (a) as between the Parties, VitalTalk retains any right, title, and interest, in and to the Licensed Property, and (b) VitalTalk Faculty Member acknowledges and agrees that it will not have any rights, title, interest in or to the Licensed Property, and VitalTalk Faculty Member shall not make any claim of ownership or interest in or to such Licensed Property.

2.7 **Policies.** Please be sure to read the policies document available at <https://faculty.vitaltalk.org/policies/> for more information on the License and specific uses.

2.8 **Prior Agreement.** The terms of this Agreement are intended to supersede any prior conflicting terms in any previously-executed agreement.

3. **Sponsors and Funding.** The License granted herein by VitalTalk to VitalTalk Faculty Member shall be royalty free pursuant to the conditions contained herein this Section 3. If a Faculty Member intends to approach a funder/sponsor outside of the Home Institution to support costs of a Powered by VitalTalk Course, then that Faculty Member must receive written permission from VitalTalk prior to applying for funds. VitalTalk reserves the right to refuse such a request being made and the right to request a fee for use of the Licensed Property and VitalTalk staff and additional Services as part of an externally funded project.

For the avoidance of doubt, VitalTalk Faculty Member or Home Institution may charge tuition to cover the expenses of offering a Powered by VitalTalk Course. However, under no circumstances shall a VitalTalk Faculty Member or Home Institution generate any profit whatsoever through offering a Powered by VitalTalk Course (including but not limited to tuition paid by attendees), or from offering any of the Licensed Property to any individual or entity.

4. **Clinician Prerequisite Satisfaction.** Upon any Clinician's completion of a Powered by VitalTalk Course, Clinician shall have satisfied the prerequisite requirement to enroll in a VitalTalk Faculty Development course, having gained familiarity with the VitalTalk method and curricula.
5. **Reporting Course Data.** VitalTalk Faculty Member shall report required data from Powered by VitalTalk Course following completion of each event using the VitalTalk Impact Tracker (available on the VitalTalk Faculty Member Portal). Such reporting shall be submitted via the VitalTalk Faculty Member portal or through any other manner decided in the future. All data included in VitalTalk Impact Tracker submissions shall become the property of VitalTalk.
6. **Powered by VitalTalk Materials.** With the exception of the Licensed Property (as defined in this License) VitalTalk Faculty Member or Home Institution if applicable, shall be responsible for all resources, equipment, staff, lodging, food, or other materials necessary or required for a Powered by VitalTalk Course. The foregoing shall also apply to VitalTalk Faculty Member procuring and training any actors necessary to conduct the Powered by VitalTalk Course. VitalTalk will not be responsible or liable for providing VitalTalk Faculty Member with any resources, personnel or materials other than the Licensed Property.
7. **Insurance.** VitalTalk Faculty Member or the Home Institution if applicable, must maintain sufficient insurance to cover liability for bodily injury, property damage, death, product liability and advertising injury arising out of offering a Powered by VitalTalk Course.
8. **Indemnification.** VitalTalk Faculty Member or Home Institution if applicable, shall indemnify, defend and hold harmless VitalTalk and its officers, directors, sponsors, partners, employees, volunteers, affiliates, and suppliers from and against any liability arising from any injuries or damages arising out of or in connection with any Powered by VitalTalk Course.

9. **Disclaimer of Warranties.**

VITALTALK DOES NOT WARRANT, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OR REPRESENTATION, THAT THE LICENSED PROPERTY WILL MEET VITALTALK FACULTY MEMBER'S REQUIREMENTS OR THAT ITS USE AND OR ACCESS TO THE LICENSED PROPERTY WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED. OTHER THAN AS SET FORTH IN THIS AGREEMENT, VITALTALK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED. OTHER THAN AS SET FORTH IN THIS AGREEMENT, THE LICENSED PROPERTY IS LICENSED "AS IS," WITH ALL FAULTS AND DEFECTS.

10. **Limitation of Liability.**

VITALTALK SHALL HAVE NO LIABILITY WITH RESPECT TO VITALTALK'S OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER EXEMPLARY DAMAGES EVEN IF VITALTALK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL VITALTALK'S LIABILITY FOR ANY REASON AND UPON ANY CAUSE OF ACTION WHATSOEVER EXCEED \$1. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION OR CLAIMS IN THE AGGREGATE, INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, CLAIMS FOR FAILURE TO EXERCISE DUE CARE IN THE PERFORMANCE OF SERVICES HEREUNDER AND OTHER TORTS. BOTH PARTIES UNDERSTAND AND AGREE THAT THE LIMITATIONS AND EXCLUSIONS SET FORTH HEREIN REPRESENT THE PARTIES' AGREEMENT AS TO THE ALLOCATION OF RISK BETWEEN THE PARTIES IN CONNECTION WITH THEIR OBLIGATIONS UNDER THIS AGREEMENT.

FURTHERMORE, VITALTALK FACULTY MEMBER AND/OR HOME INSTITUTION ASSUMES FULL RESPONSIBILITY FOR ANY AND ALL INJURIES OR DAMAGES VITALTALK FACULTY MEMBER OR HOME INSTITUTION MAY SUSTAIN OR CAUSE OTHERS TO SUSTAIN IN CONNECTION WITH ANY POWERED BY VITALTALK COURSE.

11. **Term and Termination.**

11.1 **Term.** This Agreement is effective on the Effective Date and will continue until terminated by VitalTalk or VitalTalk Faculty Member as set forth pursuant to the provisions of this Section 11 (the "**Term**").

11.2 **Termination or Amendment by VitalTalk.** VitalTalk may immediately terminate this Agreement (a) for any material breach by VitalTalk Faculty Member, including failure to comply with the terms of Section 2 or (b) if VitalTalk Faculty Member fails to use the License as determined by VitalTalk in its sole discretion in accordance with this Agreement. Such termination will be effective five days after VitalTalk's delivery to VitalTalk Faculty Member of written notice of termination if VitalTalk Faculty Member's material breach or failure to act in accordance with this Agreement is not cured within five days from written notice by VitalTalk of such breach. VitalTalk may, at any time during the Term, amend all or any portion

of this Agreement provided that VitalTalk provides sixty days' written notice to VitalTalk Faculty Member of such amendment.

- 11.3 Termination by VitalTalk Faculty Member. Upon sixty days' written notice to VitalTalk, VitalTalk Faculty Member may terminate this Agreement for any reason including but not limited to VitalTalk's notification of amendment to this Agreement.
- 11.4 Effect of Expiration or Termination; Survival. Upon termination of this Agreement by either Party, the License granted herein shall immediately terminate and all right, title, and interest in and to the Licensed Property shall revert to VitalTalk. VitalTalk Faculty Member shall return control of and cease all use of the Licensed Property. The definitions contained in this Agreement and the rights and obligations contained herein will survive any termination or expiration of this Agreement.
12. Notices. Any notice required or permitted by this Agreement will be in writing and delivered as follows: (a) by personal delivery, when actually delivered to the person(s) in the signature block below; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission or other electronic transmission, upon acknowledgment of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice will be sent to the addresses set forth in the signature block below or to such other address as either Party may provide in writing.
13. Governing Law; Forum. This Agreement will be governed in all respects by the laws of the State of Washington. The Parties consent to the exclusive personal jurisdiction of the federal and state courts located in King County, Washington, as applicable, for any matter arising out of or relating to this Agreement.
14. Severability. If an adjudicator holds that any provision of this Agreement is illegal, invalid, or unenforceable, then that provision will be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision, and the Agreement's remaining provisions shall not be affected.
15. Dispute Resolution. The Parties shall first attempt to resolve any dispute arising out of or relating to this Agreement informally amongst themselves. If the Parties cannot resolve a conflict amongst themselves, then the matter shall be resolved by binding arbitration. Arbitration will be before a single arbitrator that VitalTalk elects from a list of three arbitrators provided by VitalTalk Faculty Member. Arbitration will be performed under the rules of the American Arbitration Association at the time a claim is filed with an arbitrator and take place in King County, Washington. An arbitration judgment may be entered into and enforced by a court of competent jurisdiction, which judgment shall include the costs and attorneys' fees for the prevailing Party at arbitration.
16. Successors and Assigns. The Parties may not assign their rights or obligations under this Agreement without the prior written consent of the other Party. Subject to the foregoing, this Agreement will be for the benefit of VitalTalk Faculty Member's successors and assigns and will be binding on VitalTalk's assignees.

17. Waiver and Modification. If a Party waives any term, provision, or breach of this Agreement, such waiver will not be effective unless it is in writing. No waiver by a Party of a breach of this Agreement will constitute a waiver of any other or subsequent breach by the other Party. This Agreement may be modified only by the Parties' mutual written agreement.
18. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to this subject matter and supersedes all prior or contemporaneous agreements concerning such subject matter, whether written or oral.
19. Counterparts and Electronic Execution. This Agreement may be executed in two counterparts, each of which, when taken together, shall constitute one agreement binding on each Party, notwithstanding that each Party is not a signatory to the same counterpart. The Parties agree that the Agreement may be executed electronically (via DocuSign or similar program or electronic signature) and delivered electronically (fax, email, etc.).

[Signature Page Follows]

IN WITNESS WHEREOF, having read and understood the above Agreement, and by evidencing their intent to be bound to the Agreement by signing below, the Parties hereby execute this Agreement, effective on the Effective Date.

VITALTALK FACULTY MEMBER

VITALTALK

Signature:

Signature:



Name:

Name:

Lynsey Seabrook

Title:

Title:

VitalTalk CEO

Date:

Date: