

# TRAINING PRODUCT LICENSE AGREEMENT

## ACCEPTANCE:

Please carefully read the following terms and conditions, which govern this transaction. You agree to be bound by these terms and conditions by selecting the “Accept” button and taking delivery of the Product identified above. You must agree to these terms and conditions before you will be allowed to receive the Product. If you do not agree to these terms and conditions, you must select “Decline” and if you do so, SWANA will not ship, transmit or otherwise make the Product available to you.

### 1. Definitions.

“Product” includes, without limitation, one or more SWANA training and educational materials, as identified above, whether delivered and accessible electronically via eLearning (Webinar, eCourses, Self-Study, etc.) or in printed form. Such materials include, but are not limited to, training manuals, slide presentations, spreadsheets and other copyrighted publications and their associated trademarks which are registered under U.S. and Canadian law.

“You” or “your” means or refers to the individual who accepts this Agreement, and no other person.

### 2. License and Restrictions.

SWANA grants to you a limited, non-exclusive, non-transferable license to use the Product in whole or in part. Each Product transaction is governed by the terms of a single, specific license, which specifically identifies the Product and covers no other Product. By licensing the Product, you agree to use the Product for your personal or business use and further agree not to re-sell, give away or otherwise make the Product available to others. Any purported re-sale, re-publication, distribution, assignment, loan, transfer or sub-license of the Product without the express written consent of SWANA is prohibited and void, and shall automatically terminate the license granted under this Agreement. You shall not represent that you own or have any proprietary interest in the Product nor that you are an agent or employee of SWANA. You agree not to modify, copy or adapt the Product or to create derivative works therefrom, nor file, store or incorporate the Product into any data or information system, nor permit any person to do any of the foregoing. SWANA prohibits the use of the Product for commercial or for-profit training.

### 3. Ownership.

The Product is proprietary to SWANA, which retains exclusive right, title and interest in and to the copyrights and other intellectual property rights in the Product. SWANA’s rights are protected by federal and state copyright, trade secret and intellectual property laws. You have no ownership rights in the Product. Except as otherwise expressly stated and mutually agreed, the nature of all transactions between you and SWANA is that of a Product use license, notwithstanding the use of “purchase,” “sale,” “buy” and similar terms on the SWANA website, e-mails, marketing and other materials. Any other use of the Product by any person or entity is strictly prohibited and a violation of this Agreement.

### 4. Disclaimer of Warranties and Limitation of Liability.

THE PRODUCT IS PROVIDED BY SWANA ON AN “AS IS” AND “AS AVAILABLE” BASIS. SWANA MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF ITS WEB SITE OR THE CONTENT OF THE PRODUCT. YOU UNDERSTAND AND AGREE THAT YOU USE THE SITE AND THE PRODUCT AT YOUR SOLE RISK.

TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, SWANA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SWANA DOES NOT WARRANT THAT ITS SITE, ITS SERVERS, E-MAIL SENT FROM SWANA, PRODUCT DOWNLOADS, OR PRODUCT DELIVERED ON PHYSICAL MEDIA ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. SWANA WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF OR THE INABILITY TO USE ITS SITE OR PRODUCT, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL AND CONSEQUENTIAL DAMAGES.

## Special Conditions for Training@Work Course Materials.

- a. SWANA offers two forms of Training@Work. Training@Work In-House training allows employers to train their employees in the workplace at their own pace using materials provided by SWANA. Training@Work On-Site training provides experienced SWANA instructors to train employees at your worksite in a classroom setting. SWANA prohibits the use of the Training@Work Products for commercial or for-profit training.
  - b. If you are acquiring a Product for Training@Work, the license granted hereunder expires 180 days after date of purchase. Before printing or otherwise disseminating any information describing or promoting the Training@Work course, you shall submit for SWANA approval (a) all proposed text and graphics in all forms and formats, (b) the fee, if any, you will charge for the course, and (c) the number of SWANA continuing education units (CEUs) that a student can earn. SWANA will determine the number of SWANA CEUs awarded. SWANA will furnish all materials for the Training@Work course and you shall not alter, add to, or transform the content thereof. Contact [training@swana.org](mailto:training@swana.org) to submit materials. Allow two weeks for response and approval.
  - c. SWANA will provide a qualified instructor upon signing of a Private Training Agreement for Training @Work On-Site. Not less than six weeks is required to secure the services of SWANA faculty. In addition to course fees, you agree to pay the instructor fee for each instructor provided.
  - d. If certificates of completion are desired, you shall provide to SWANA the following information about each attendee: name; organization; mailing address; telephone number; e-mail address. SWANA will directly provide a certificate of participation to each attendee who successfully completes the course with a notation of the number of CEUs earned.
5. Termination. SWANA may terminate this Agreement, without further action, upon your material breach of any limitation, condition or restriction set forth herein. Upon such termination, all rights hereunder shall cease, except that (a) all obligations that accrued prior to the termination date and any remedies for breach of this Agreement shall survive any such termination, (b) you shall cease using the Product and promptly return it to SWANA, and (c) the provisions of Sections 2, 3, 4 of 6 hereof shall survive.
6. General Provisions.
- a. You acknowledge and agree that in the event of any dispute between you and SWANA the only damages that can be awarded are limited to the amount you have advanced or paid to SWANA for the license of the Product.
  - b. This Agreement will be interpreted under the laws of the state of Maryland. Venue for any litigation arising hereunder shall be the courts in and for Montgomery County, Maryland, or the U.S. District Court for the District of Maryland, as the case may be. You agree that, in the event of any breach or threatened breach of Sections 2 or 3 hereof, SWANA will suffer irreparable damage for which there is no adequate remedy at law. Accordingly, SWANA shall be entitled to injunctive relief and other equitable remedies to prevent or restrain such breach or threatened breach without the necessity of posting any bond. By mutual agreement, you and SWANA may submit any dispute to arbitration or mediation.
  - c. You shall indemnify and defend SWANA and hold it harmless from and against all liability, losses, claims, demands, actions, suits, damages, judgments, costs and expenses, including reasonable attorney's fees and expenses, that SWANA incurs related to your breach of this Agreement.
  - d. Any notices, correspondence or other communications under this Agreement shall be given or sent to: SWANA Training Program Manager 1100 Wayne Avenue, Suite 700 Silver Spring, MD 20910 or [training@swana.org](mailto:training@swana.org)
  - e. This Agreement constitutes the entire agreement between you and SWANA, and all prior agreements, understandings, representations, and statements have been merged herein. This Agreement has the same force and effect as a signed agreement. If any provision of this Agreement is determined to be illegal or unenforceable, such provision will be limited or eliminated to the minimum extent necessary so that this Agreement will remain fully enforceable and effective. This Agreement may not be modified, and no agreement hereafter made between the parties shall be binding on either party, unless done in writing and signed by the authorized representatives of the parties.