

# End User License Agreement Easygenerator

## Terms and conditions for Free, Starter, Plus and Academy plan

### 1. The Service:

The "Service" includes:

- a) the Easygenerator website and web shop;
- b) the on demand application related to your account;
- c) the (optional) hosting of the learning content for your learners;
- d) the (optional) tracking and tracing database for the results of your learners;
- e) our online help website [easygenerator.com/help](http://easygenerator.com/help).

Any new features added to or augmenting the Service are also subject to the Terms of Use.

### 2. Acceptance of terms

- a) Easygenerator provides its service to you through its website, [www.easygenerator.com](http://www.easygenerator.com)
- b) By accepting these terms or accessing Easygenerator provided URLs, you acknowledge that you have read, understood and agreed to be bound by the following terms, and that all materials made or used by you on [www.easygenerator.com](http://www.easygenerator.com) are within your rights to make. If you are entering into these terms on behalf of an employer or third party, you represent that you have authority to bind that entity to these terms. If you do not have such authority or do not agree to the terms and conditions, you cannot use the Easygenerator service.
- c) You acknowledge that these terms constitute an agreement between Easygenerator and you and that that your digital signup for the Easygenerator service acts in place of a physical signed agreement.

### 3. Subscription terms and payment

- a) Each individual, as identified by a unique email address, is allowed one free trial of Easygenerator for a 14-day period, unless agreed otherwise.
- b) At the end of the 14-day trial period the 'Enterprise' account will revert to Easygenerator Free, unless the customer chooses to a paid account. When reverting to Free all data should be saved, but Easygenerator does not take any responsibility for any loss of data.
- c) All Easygenerator subscriptions are named subscriptions and can only being used by one person. A user is not allowed to share his account with other people.
- d) The paid plans (Starter, Plus and Academy) are billed monthly (this constitutes the billing month and can be 28 days to 31 days depending on the calendar month) and in advance or yearly.
- e) The customer receives a month's (28 to 31 days as determined by the calendar month) or a year access to the determined subscription once payment has been

made. The customer will automatically be charged on the same date each month (or year) for continuous access to paid subscription.

- f) If payment is not received by Easygenerator in the initial auto-renewal process the customer will be notified via email. If the payment is not received the account will revert to the Free Plan and all paid privileges will be lost. The content will be saved.
- g) Customers can upgrade their subscription to another plan at any time. There are no refunds for downgrades or cancellations of accounts before the pre-paid period has expired. If the customer upgrades during their pre-paid period, the difference for the remaining days of their billing month will be charged pro-rata at time of upgrade. Thereafter the customer will be charged the new price for each subsequent billing period.
- h) Cancellation can be done within the web shop of the Easygenerator application or by emailing a written request to sales@Easygenerator.com.
- i) As soon as the cancellation notification is fulfilled the customer will no longer have access to the application or its contents. Easygenerator reserves the right to delete the contents of all cancelled accounts.
- j) Easygenerator shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.
- k) Easygenerator reserves the right to implement price changes with 30 days' notice to the customer. Customers on monthly subscriptions will be charged the new price the next month that falls after the 30 days. Customers on annual accounts will be charged the agreed amount for the full 12 months of their contract; thereafter the new price will take effect.

#### **4. Uptime for the Free Plan**

- a) Easygenerator reserves the right to terminate or modify the Free Plan service at any time, without prior notification.
- b) The Service is provided on an "as is" and "as available" basis without any warranty or condition, express, implied or statutory.
- c) Easygenerator makes no claims that the service will be uninterrupted or error-free and customers use the application at their own risk. The service will be unavailable each week between 7 PM CET and 9 PM CET, this is our planned maintenance window.

#### **5. Uptime for the paid plans**

- a) For the Paid Plans: Starter, Plus and Academy Plan Easygenerator gives an up time guarantee
- b) Easygenerator makes no claims that the service will be uninterrupted or error-free and customers use the application at their own risk.
- c) The service will be unavailable each week between 7 PM CET and 9 PM CET, this is our planned maintenance window
- d) We guarantee a 99.5% uptime of the service (excluding planned maintenance) for the paid plans

## 6. General conditions

- a) You agree, as a customer, not to license, resell, lease, transfer or distribute the service to any third party vendors.
- b) You agree, as a customer, not to use Easygenerator for unlawful purposes, such as infringing privacy, data ownership or intellectual property rights.
- c) You agree to act within anti-spam policy guidelines for your country and shall not use Easygenerator to transmit unsolicited mail.
- d) As a customer of Easygenerator you acknowledge that Easygenerator is the proprietor of the software and you do not have the right to adapt, hack, or reverse engineer the source code of the software.
- e) You are responsible for the data stored in your Easygenerator account, and for all data, be it email, chat, social media messages or learning management system sent or published from your Easygenerator account. Easygenerator does not take responsibility for any racist, libel or defamatory messages of any kind sent or published from the Easygenerator application, and you indemnify Easygenerator from any damages relating to such an occurrence.
- f) You agree to keep your login information confidential, and to restrict each login to one person. A single user account cannot be shared by multiple people.
- g) Easygenerator reserves the right to cancel the account of a customer immediately, and without warning, if the customer infringes the above terms. If, at Easygenerator's sole discretion, we determine the customer has abused their access rights to the Easygenerator application termination without warning will take effect immediately.
- h) All users have the right to restrict the permission to share content by upgrading from a Free subscription to the Starter, Plus or Academy Plan.
- i) You may not upload, post, or transmit (collectively, "submit") any video, image, text, audio recording, or other work (collectively, "content") that:
  - i) Infringes any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.);
  - ii) Contains sexually explicit content or pornography (provided, however, that non-sexual nudity is permitted);
  - iii) Contains hateful, defamatory, or discriminatory content or incites hatred against any individual or group;
  - iv) Exploits minors;
  - v) Depicts unlawful acts or extreme violence;
  - vi) Depicts animal cruelty or extreme violence towards animals;
  - vii) Promotes fraudulent or dubious business schemes; or
  - viii) Violates any law.

## 7. Data privacy & security and copyrights

- a) In providing you the service we shall maintain all administrative and technical safeguards to protect the security, confidentiality and integrity of your data.
- b) Easygenerator will only ever access your account upon your request for technical assistance. You will be asked to provide explicit consent each time an employee of Easygenerator needs to access your account. No employee of Easygenerator will access your account without prior permission; unless required to do so by law.

- c) Intellectual property rights. Easygenerator shall maintain all rights, title and interest in our respective patents, inventions, copyrights, trademarks, domain names, and any other intellectual or property and/or proprietary rights . The rights granted to you to use the Service do not convey, by extension, any title to patents, inventions, copyrights, trademarks, domains name or any other intellectual property owned by Easygenerator.
- d) Any feedback, enhancement suggestions or recommendations received from you can be incorporated into the Easygenerator service: worldwide; royalty-free; in perpetuity; and to any other Easygenerator product(s) by transfer. You cannot claim any rights to these incorporations, either now or in the future.
- e) Easygenerator has the option to track and trace the results from your learners. This option is by default enabled. You can disable it in the settings in the application. These results will only be visible to you as the author, not to anyone else. The learner will at the start of the course get a login screen asking him for his permission to track and trace the results of his activities and will have an option to take the course without tracking his results. Easygenerator does have the right to analyze this data for general trends and figures, but not on a personal or customer level, unless that customer has approved that.
- f) All content created in the Free Plan of Easygenerator is owned (including copyrights) by the user who created it. By accepting this End User License Agreement (EULA) the user gives Easygenerator permission to share all content created by the user on the Easygenerator platform with other Easygenerator users. The user also gives permission for other users to have an unlimited and unrestricted right to reuse, change, create derivative works or publish this content. The goal of content sharing is to help other users in creating better e-Learning based on the experience of others. All free content will also be indexed by search engines.
- g) All content created in the Paid Plans (Starter, Plus and Academy) of Easygenerator is owned (including copyrights) by the user who created it. The content from the paid Plans will not be indexed by search engines.

## **8. Third parties**

- a) To deliver our service to you, Easygenerator may utilize third party services. Your acceptance of these services confirms your compliance with the terms and conditions of these third party services. Easygenerator is not responsible for, nor does it endorse, the governance of your rights by third party companies. Easygenerator is not liable for any damage or loss attributed to, or connected to, your access or the uptime of a third party's services.

## **9. Disclaimer of warranties.**

- a) The service, including the site and content, and all server and network components are provided on an "as is" and "as available" basis, without any warranties of any kind to the fullest extent permitted by law, and Easygenerator expressly disclaims any and all warranties, whether express or implied, including, but not limited to, the implied warranties of merchantability, title, fitness for a particular purpose, and non-infringement. You acknowledge that Easygenerator does not warrant that the service will be uninterrupted, timely, secure, error-free or virus-free, and no information or

advice obtained by you from Easygenerator or through the service shall create any warranty not expressly stated in these terms.

## 10. Limitation of liability

- a) No consequential damages. Under no circumstances and under no legal theory (whether in contract, tort, negligence or otherwise) will either party to these terms, or such party's affiliates or their respective officers, directors, employees, agents, suppliers or licensors be liable to the other party or any third party for any indirect, incidental, special, exemplary, consequential, punitive or other similar damages, including lost profits, lost sales or business, lost data, business interruption or any other loss incurred by such party in connection with these terms or the service, regardless of whether such party has been advised of the possibility of or could have foreseen such damages.
- b) Limits on monetary damages. Notwithstanding anything to the contrary in these terms, Easygenerator's (including any of its affiliates) aggregate liability, for damages (monetary or otherwise) under these terms claimed by you or any third party arising from our service, shall be limited to the lesser of (i) actual damages incurred, or (ii) payments made by you for the service during the twelve (12) months preceding the claim. The parties acknowledge and agree that the essential purpose of this section 11.2 is to allocate the risks under these terms between the parties and limit their potential liability given the fees charged under this agreement, which would have been substantially higher if Easygenerator were to assume any further liability other than as set forth herein. The parties have relied on these limitations in determining whether to enter into these terms.

## 11. Indemnification

- a) Indemnification by Easygenerator. Easygenerator will indemnify and hold you harmless, from and against any claim against You by reason of Your use of the Service as permitted hereunder, brought by a third party alleging that the Service infringes a valid patent or copyright, or misappropriates a third party's trade secret (such claims, collectively, "Claim"). Easygenerator shall, at its expense, defend such Claim and pay damages finally awarded against You in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Easygenerator for such defense, provided that (i) You promptly notify Easygenerator of the threat or notice of such Claim, (ii) Easygenerator will have the sole and exclusive control and authority to select defense attorneys, defend and/or settle any such Claim, and (iii) You fully cooperate with Easygenerator in connection therewith. If Your use of the Service has become, or in Easygenerator's opinion is likely to become, the subject of any such Claim, Easygenerator may at its option and expense (a) procure for You the right to continue using the Service as set forth hereunder; (b) replace or modify the Service to make it non-infringing; or (c) if options (a) or (b) are not reasonably practicable, terminate these Terms and repay You any unused Service fees. Easygenerator will have no liability or obligation under this Section 12.1 with respect to any Claim if such claim is caused in whole or in part by
  - i) compliance with designs, data, instructions or specifications provided by You;
  - ii) modification of the Service by anyone other than Easygenerator; or

- iii) the combination, operation or use of the Service with other hardware or software where the Service would not by itself be infringing.
- b) The provisions of this Section 12.1 state the sole, exclusive and entire liability of Easygenerator to You and constitute Your sole remedy with respect to a Claim brought by reason of Your permitted use of the Service.
- c) Indemnification by You. You agree to defend, indemnify, and hold harmless Easygenerator from and against any claims, actions or demands, including, without limitation, reasonable legal and professional services fees, arising or resulting from Your breach of these Terms, or Your and Your end users' access to, use, misuse or illegal use of the Service. Easygenerator will provide You notice of any such claim, suit, or proceeding. Easygenerator reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section, in which case You agree to cooperate with any reasonable requests to assist Easygenerator's defense of such matter.

## **12) Assignment; entire agreement; revisions**

- a) Either party may assign or transfer these Terms, in whole or in part, without restriction, provided the assignee agree to be fully bound by these Terms. These Terms supersede prior versions of these Terms, or any other discussions, agreements or understandings by or among the parties (other than written agreements expressly accepted and executed by both parties). We may amend these Terms from time to time, in which case the new Terms will supersede prior versions. We will notify You of such changes and direct You to the latest version.

## **13. Severability**

- a) If any provision in these Terms is held by a court of competent jurisdiction to be unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms shall remain in effect.

## **14. Relationship of the parties**

- a) The parties are independent contractors. These Terms do not create a partnership, franchise, joint venture, agency, and fiduciary or employment relationship among the parties.

## **15. Governing law and dispute resolution**

- a) This Agreement shall be governed by and construed in accordance with the laws of The Netherlands. Any dispute or claim arising out of or in connection with this Agreement or the performance, breach or termination thereof shall be finally settled by the competent court in Amsterdam, The Netherlands.

## **16. No Other Rights.**

- a) No other rights or licenses are granted under this Agreement, by implication, estoppel, statute or otherwise, except as expressly provided herein.