

Training Evidence Systems Services Pty Ltd ACN 168 116 112

(xapiapps)

STANDARD SERVICE TERMS AND CONDITIONS

These are xapiapps' standard Terms and Conditions which apply to every contract when you as the Customer engage xapiapps to perform its services. When providing our services, we may also incur out-of-pocket costs and other expenses which will be reimbursable by Customer.

xapiapps reserves the right to amend these Terms and Conditions from time to time at our discretion. Any changes made in such revision take immediate effect once the Customer is notified of such a change.

ENGAGEMENT

1. xapiapps represents and warrants that xapiappshas all the necessary skills, knowledge, experience and expertise to perform the services and will perform the services in a proper and competent manner.
2. xapiapps holds all necessary licences and permits required in order to allow xapiapps to perform the services. xapiapps and all xapiapps' employees and permitted sub-contractors are properly qualified, experienced, licensed (where applicable) and competent to properly perform and will perform the service to the required standards.
3. If an event occurs that is beyond the reasonable control of xapiapps which prevents xapiapps from performing the services on or by the date agreed, xapiapps will immediately notify the Customer and give an estimate of the time for completion of the service.
4. Customer will provide all necessary information and data for xapiapps to provide the services.
5. All software and related intellectual property developed through the provision of services remains the property of xapiapps and use of such software and services by Customer is subject to the terms of quotation.
6. xapiapps may use sub-contractors to provide any of the service. In such circumstances, xapiapps will ensure that:
 - (a) the sub-contractors so engaged are suitably qualified, hold all necessary licences and are otherwise able to perform the service in a proper and workman-like manner;
 - (b) the sub-contractors so engaged do not by act or omission do or not do anything that would if done or not done by xapiapps be a breach any of these terms;
 - (c) the sub-contractors so engaged have current or necessary insurances.
7. xapiapps is solely responsible for all fees payable to sub-contractors.

ACCEPTANCE OF THESE TERMS

8. Any act by the Customer or those legally acting on behalf of the customer which requests xapiapps to begin performing any services or providing any materials will be deemed as acceptance to these Terms and Conditions.
9. Once these Terms and Conditions are accepted they are irrevocable and cannot be amended without the written consent of xapiapps.
10. In the event there is more than one party as a Customer to these Terms and Conditions, all Customers will be jointly liable for these Terms and Conditions.
11. Should the Customer cancel the engagement of xapiapps after it has been accepted, the Customer agrees they may be held liable for any costs incurred by the xapiapps in relation to the provision of the services and/or provision of products up to the point of cancellation.

QUOTES, INVOICES AND PAYMENT

12. The Customer will pay xapiapps 'fee within 7 days of invoice.

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13. xapiapps will issue a weekly tax invoice for the services setting out the services performed, including any variation, the date the services were performed and by whom. The tax invoice will also separately identify all expenses and any GST payable.
14. Payment of xapiapps's tax invoice should be made in the following manner: electronic transfer to our bank account.
15. Where the Customer fails to pay any tax invoice on or before the due date, the Customer agrees that xapiapps will add interest to the total outstanding amount at the rate of 3% interest per calendar month and that the Customer will be liable to pay an accrued interest in addition to the outstanding amount.
16. In the event the Customer defaults in payment of an invoice, the customer shall indemnify xapiapps from any costs incurred by xapiapps in recovering the outstanding amount, including but not limited to solicitors fees.
17. The Customer is not entitled to deduct any invoiced amount from any amounts owing to the Customer by xapiapps

Occupational Health and Safety/Workplace Health and Safety

18. The Customer will ensure that, if the service is to be performed on the Customer's property, the Customer is authorised to occupy those premises and obtain the service.
19. The Customer will ensure that if the service is to be performed on the Customer's property, that at all times the property is safe and that all facilities provided by the Customer for the purposes of enabling the service to be performed are also safe.
20. The Customer will ensure that xapiapps will have unencumbered and unobstructed access to the area/s of the premises requiring the service.
21. xapiapps will ensure that at all times in performing the service it uses safe and proper procedures and practices and that all its employees are properly trained and supervised and observe all proper safety practices xapiapps will at all times have current Workers Compensation insurance and will, on request with prior notice, provide evidence to the Customer of its currency.

LIMITATION ON WARRANTY

22. xapiapps warrants that all the service it performs including any product it supplies as part of the service will be fit for its intended purpose, will be capable of being used by the Customer for its intended purpose and will perform in accordance within its applicable specifications (if any).
23. All statutory warranties that can be lawfully excluded are hereby expressly excluded.
24. To the extent permitted by law, xapiapps is not liable for negligence or otherwise to any person including the Customer for any loss or damage including consequential loss suffered or incurred in relation to xapiapps' service or products supplied.
25. Where the service is not of the kind ordinarily required for personal, domestic or household use or consumption then the liability of the xapiapps is limited pursuant to s.64A of the *Competition and Consumer Act 2010* (Cth) to, at the discretion of the xapiapps:
 - (a) the supplying of the service again; or
 - (b) the payment of the cost/s of having the service supplied again.

JURISDICTION

26. It is agreed by the Parties that these Terms and Conditions will be construed in accordance with the Law of South Australia and each Party covenants that it submits to the jurisdiction of the Courts of South Australia for the resolution of any dispute under the Agreement.

FORCE MAJEURE

27. Neither xapiapps nor the Customer shall be held liable for any breach of these terms where the breach arises from an act of God, war, natural disaster, terrorism or any other event beyond the reasonable control of either party.