



Assessment Academy

Assessment Essentials

END-USER LICENCE AGREEMENT FOR THE ASSESSMENT ESSENTIALS ONLINE TRAINING SYSTEM PROVIDED BY EVIDENCE BASED EDUCATION.

THIS AGREEMENT IS MADE BETWEEN THE END USER OF THIS SOFTWARE (THE "CUSTOMER") AND INJ ASSOCIATES LTD T/A EVIDENCE BASED EDUCATION, WHOSE REGISTERED ADDRESS IS 3 GEORGE STREET, DURHAM DH1 4PA.

WHEREAS:

1. The Customer or organisation purchasing on behalf of the customer (henceforth referred to as the "Customer") wishes to purchase a licence from EVIDENCE BASED EDUCATION to use one or more of EVIDENCE BASED EDUCATION's online training systems (henceforth referred to as the "System"), install or access online software belonging to EVIDENCE BASED EDUCATION which may include associated software components, media, printed materials, and "online" or electronic documentation.
2. EVIDENCE BASED EDUCATION has agreed to allow the Customer to install or access online, and otherwise use the online training system subject to the terms and conditions of this Agreement;
3. In placing an online order with EVIDENCE BASED EDUCATION (an "Order") for any of EVIDENCE BASED EDUCATION's Systems, the Customer understands that in doing so, the Customer enters into a legally binding contract with INJ Associates Ltd t/a Evidence Based Education in respect of a Licence to access and use such Systems. Incorporated into this Licence are the terms of the Order, and the conditions as set out in this Licence.

TERMS AND CONDITIONS OF LICENCE:

1. EVIDENCE BASED EDUCATION hereby grants to the Customer the right to use the System on the Customer's computer running validly licensed copies of the operating system for which the System was designed.
2. EVIDENCE BASED EDUCATION will use its best endeavours to ensure that the System is provided under the best care, skill and diligence and in accordance with all applicable laws and regulations, and in consultation with the Customers.
3. In consideration of the rights granted to the Customer hereunder, the Customer undertakes and agrees to make payment to EVIDENCE BASED EDUCATION of the Licence Fee detailed in the Order, either by credit/debit card in advance, or within thirty (30) days of receipt of an invoice.
4. Payments by invoice which are more than 14 days overdue may be subject to interest and late payment compensation in accordance with the terms of the Late Payment of Commercial Debts Act 1998.
5. The Customer acknowledges and agrees that any and all Intellectual Property Rights held in the System including but not limited to all copyright therein, shall remain the sole and exclusive property of EVIDENCE BASED EDUCATION.

6. EVIDENCE BASED EDUCATION warrants to the Customer that the Intellectual Property Rights in the System, so far as it is aware and to the best of its knowledge and belief, do not infringe the rights of any third party and that no third party has threatened or is currently threatening proceedings in respect of such infringement, and none of its Intellectual Property Rights in the System is the subject of any actual or, so far as it is aware, threatened challenge, opposition or revocation proceedings.
7. The Parties agree at all times to handle personal information of the candidates strictly in accordance with the Data Protection Legislation which for the purposes of this Agreement means the Data Protection Act 1998, the Regulation EU/2016/679 of the European Parliament and of the Council of 27 April 2016 (the General Data Protection Regulation) and all applicable laws and regulations relating to processing of personal data and privacy including where applicable the guidance and codes of practice issued by the Information Commissioner..
8. The Customer will act as Data Controller, and EVIDENCE BASED EDUCATION will act as Data Processor, in respect of any personal data entered into the System or otherwise supplied to EVIDENCE BASED EDUCATION for the purpose of the System. EVIDENCE BASED EDUCATION will act as Data Controller in respect of information processed for research purposes.
9. The Customer agrees they are responsible for ensuring they have a lawful basis for sharing any of the personal data provided to EVIDENCE BASED EDUCATION as part of the System.
10. The Customer agrees that they are responsible for ensuring that adequate privacy notices are provided to data subjects and for seeking consent for the processing of personal data.
11. The Customer acknowledges that personal data provided to EVIDENCE BASED EDUCATION will be used by EVIDENCE BASED EDUCATION for research purposes and for service improvement. No Customer or individual will be identified as part of any published research. The Customer is responsible for ensuring that this processing activity is included within privacy notices.
12. EVIDENCE BASED EDUCATION shall provide appropriate technical and organisational measures to protect the security of the data, in particular against unauthorised and unlawful access or processing, alteration, accidental loss or destruction of or damage to the data, and will take all reasonable steps to ensure the reliability of any of its staff who have access to the data.
13. The Customer hereby acknowledges to EVIDENCE BASED EDUCATION that EVIDENCE BASED EDUCATION is subject to the requirements of the Freedom of Information Act 2000 and the Customer agrees to assist and co-operate with EVIDENCE BASED EDUCATION (at their own expense) to enable EVIDENCE BASED EDUCATION to comply with these information disclosure requirements. Further, in the event that the Customer is also subject to the requirements of the Freedom of Information Act 2000, EVIDENCE BASED EDUCATION agrees to assist and co-operate with the Customer (at their own expense) to enable the Customer to comply with these information disclosure requirements. Any disclosure made by either party pursuant to such party's obligations under the provisions of the FOIA, shall not constitute a breach of this Agreement. The provisions of this clause 11 shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.
14. The following sets out the entire financial liability of EVIDENCE BASED EDUCATION to the Customer in respect of any breach by EVIDENCE BASED EDUCATION of this Agreement, non or incomplete performance or contemplated performance by EVIDENCE BASED EDUCATION of this Agreement, negligence for which EVIDENCE BASED EDUCATION is

liable, and any representation or statement arising under or in connection with this Agreement or by or on behalf of EVIDENCE BASED EDUCATION:-

15. In respect of all other losses and claims, the aggregate liability of EVIDENCE BASED EDUCATION for any breach, negligence and/or liability arising in any other way out of the subject matter of this Agreement or the performance of the System will not exceed in total the amounts actually received by EVIDENCE BASED EDUCATION from the Customer for the licence of the System software under this Agreement; and
16. EVIDENCE BASED EDUCATION shall in no circumstances be liable for any loss of profits, loss of business or production, depletion of goodwill, loss of or corruption to data, and/or any indirect loss.
17. EVIDENCE BASED EDUCATION will in no event be liable for any statement or representation about the Customer, their business, products or services made or communicated in or by any item, material or work approved by the Customers in writing.
18. For clarity, nothing in this Agreement limits or excludes either Party's liability for death or personal injury caused by such Party's negligence or any fraud or for any sort of liability that by law cannot be limited or excluded.
19. The Customer undertakes that under no circumstance shall the Customer:
 - 19.1. copy, reproduce or create derivative works from the System;
 - 19.2. provide the System to any a third party, other than as contemplated under this Licence, without the express written permission of EVIDENCE BASED EDUCATION;
 - 19.3. sublicense, rent, sell or lease any portion of the System; nor
 - 19.4. use the System in any manner not authorised by these terms.
20. The Customer hereby acknowledges that certain elements of the System may at any time be in the process of being developed. The System may subsequently be substantially modified or withdrawn at the sole discretion of EVIDENCE BASED EDUCATION.
21. The Customer's installation and use of the System is at the Customer's sole discretion and risk and may produce unintended or erroneous results and may contain bugs, errors and other problems that could cause system or other failures and data loss. The Customer accepts that the System is provided to the Customer "as is" without any warranty, and EVIDENCE BASED EDUCATION expressly disclaims any and all warranties, including, but not limited to, warranties of merchantability, fitness for a particular purpose or error free operation.
22. To the extent permitted by applicable law, in no event shall EVIDENCE BASED EDUCATION be liable for damages of any kind under this agreement including, without limitation, direct, indirect, incidental, punitive, or consequential damages. Therefore the entire risk arising out of the use or performance of the System remain with the Customer.
23. Notwithstanding any damages that the Customer might incur for any reason whatsoever (including, without limitation, all damages referenced above and all direct or general damages), the entire liability of EVIDENCE BASED EDUCATION and any of its suppliers under any provision of this Agreement, the Customer's exclusive remedy for all of the foregoing shall be limited to the greater of the amount actually paid by the Customer for access to the System under this Agreement, or FIVE GBP (£5). The foregoing limitations, exclusions, and disclaimers shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.
24. EVIDENCE BASED EDUCATION is not obligated to provide updates to the System. However, in the event EVIDENCE BASED EDUCATION elects in its sole discretion to provide updates to

the System, such updates shall be deemed to constitute part of the System, and shall therefore be subject to these terms.

25. The Customer warrants to EVIDENCE BASED EDUCATION it shall at no point:

25.1. take any action which is intended, or could reasonably be expected, to harm in any way EVIDENCE BASED EDUCATION or INJ Associates Ltd t/a Evidence Based Education, or EVIDENCE BASED EDUCATION's, or INJ Associates Ltd t/a Evidence Based Education's reputation; or

25.2. take any action which is intended, or could reasonably be expected to lead to any unwanted or unfavourable publicity for EVIDENCE BASED EDUCATION or for INJ Associates Ltd t/a Evidence Based Education.

26. The Customer may terminate this Agreement for convenience at any time prior to commencement of installation or use of the System, by written notice to EVIDENCE BASED EDUCATION. Where this Agreement is terminated by the Customer for convenience prior to installation or use of the System, the Customer agrees to pay EVIDENCE BASED EDUCATION a withdrawal fee to a total sum of FIFTY GBP (£50), excluding VAT. Payment of said withdrawal charge shall be made within thirty (30) days of receipt by the Customer of an invoice. Where the Customer wishes to terminate this Agreement following installation or use of the System, the Customer may do so by written notice to EVIDENCE BASED EDUCATION, however, where installation of the System has already begun, the Customer shall remain liable to EVIDENCE BASED EDUCATION to pay the Licence Fee in full.

27. In the event that any Court or other competent authority decides that any provision of this Agreement is void or otherwise ineffective in whole or in part then any other part and the other terms and conditions of this Agreement shall continue in full force and effect.

28. The parties do not intend that any term of this Agreement shall be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.

29. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous agreements, arrangements or undertakings between the parties relating to the subject matter of this Agreement and any representations or warranties previously given or made to it.

30. This Agreement is governed by and interpreted in accordance with English law. Any disputes or claims relating to this Agreement shall be subject to the exclusive jurisdiction of the English Courts.