



SETA ACCREDITATION SPECIALISTS

STANDARD TERMS AND CONDITIONS
2021

The Service Provider and the Client understand / agree to the following terms:

1. DEFINITIONS

- 1.1 The Service Provider: Jeanine Topping and Associates CC
- 1.2 The Client: the entity for which the Service Provider undertakes to provide services as set out in the Onboarding Form to which these Terms and Conditions relate.
- 1.3 SETA: Sector Education Training Authority
- 1.4 ETQA: Education Training Quality Authority

2. PRIMARY SERVICES

The Primary Services that shall be provided by the Service Provider to the Client shall be as elected by the Client in Item 3 of the Confirmation Form. Depending on this election, the Primary Services shall be as follows:

- 2.1 Accreditation Assistance
- 2.2 Supply of Shelf Training Material
- 2.3 Supply of Quality Management System
- 2.4 Supply of Monthly Retainer Assistance

2.1 Accreditation Assistance

- 2.1.1 The completion of the ETQA Client Application form;
- 2.1.2 The sourcing and arranging of Services Level Agreements and ETQA documents with an Assessor / Moderator on behalf of the Client;
- 2.1.3 Liaising with the ETQA telephonically and electronically for clarification on any queries that may arise during the above process and following up on Compliant Letters, Site Visits and ETQA Reports and forwarding same to Client;
- 2.1.4 Preparation of the Generic Quality Management System Document as required by the relevant ETQA for the accreditation of the Client;
- 2.1.5 The supply of templates for all documentation required for the ETQA Accreditation File to the Client;
- 2.1.6 The arranging of Internal Moderators Programme Approval Reports and project managing any changes that may be required subsequent to these reports;
- 2.1.7 Providing advice on the preparation of the Client's training premises to ensure compliance with ETQA requirements;
- 2.1.8 File checking to prepare client for ETQA site visits;
- 2.1.9 Assessor/Moderator registration (1 free application per Client);
- 2.1.10 1 (ONE) day face to face consultation for the customisation of templates.

2.2 Supply of Shelf Training Material

- 2.2.1 Supply shelf training material electronically which has been aligned to SAQA requirements. The client is aware they will need to customise this and add content which is industry specific. Shelf material is a guideline and should not be the final product that is trained.

2.3 Supply of Quality Management System (included for Accreditation clients)

- 2.3.1 Supply 1 Quality Management System electronically

2.4 Supply of Monthly Retainer Assistance

- 2.4.1 Offer monthly retainer services for a certain number of hours per month

3 OBLIGATIONS OF THE SERVICE PROVIDER

- 3.1 Upon payment of the initial deposit amount referred to in the Onboarding Form signed by the Client, the Service Provider shall

provide the Client with the necessary documents to begin the accreditation process as soon as reasonably possible thereafter for completion by the Client.

- 3.2 The Service Provider shall assist, guide and provide advice in respect of the completion of the necessary service, to the best of its abilities and in line with its professional knowledge.
- 3.3 In respect of templates provided by the Service Provider, the Client acknowledges that it is its responsibility to customise these to suit its own financial and specific juristic requirements.
- 3.4 The parties acknowledge that while most ETQA's state that the time period in respect of receipt of acknowledgement in respect of submitted applications should take approximately 60 to 90 days, the parties acknowledge that in practice the period is more realistically a period of approximately 4 to 8 months.
- 3.5 In respect of the accreditation report receipt, the Service Provider undertakes to begin the following up process with the relevant ETQA 30 days after submission and completion of the relevant ETQA Accreditation File by the Client. The Service Provider undertakes to continue with such following up procedures on a monthly basis as this is the standard procedure as asset by the ETQAs, and to undertake any further reporting that may be required by the relevant ETQA in respect of the accreditation process on behalf of the Client.
- 3.6 Service Availability
Coverage parameters specific to the Services covered in this agreement are as follows:

SERVICE NAME	COMMENTS	AVAILABILITY
TELEPHONE SUPPORT	Telephone calls received can only be during office hours. Staff do not have company cell phones and clients are requested not to contact them on their private cell phone numbers	Monday to Friday 8:30am to 4:00pm Monday 8am-9am Staff Planning Friday 3pm-4pm Staff Meeting Staff are committed to returning telephone calls within a 24 hours' period
EMAIL SUPPORT	Numerous emails to and from Client/ Service Provider reduces the efficiency of the process. Misunderstandings occur – clients are encouraged to make an appointment with staff and resolve numerous queries at these meetings face to face instead of sending numerous emails. All emails are saved on our server should we ever need to revert back to instructions.	Monday to Friday 8:30am to 4:00pm Monday 8am-9am Staff Planning Friday 3pm-4pm Staff Meeting Staff are committed to returning emails within a 48-hour period
ONSITE ASSISTANCE	Negotiated on a Project by Project basis	Due notice needs to be given – The Client needs to arrange transport from and to the Clients premises for our Staff members for their costs

- 3.7 Monitoring and Reporting
Acknowledgment and response times will be continuously measured and reported every month to the Client using an in-house Customer Services Management Tool. These reports and time used on the Client's project will be sent to the Client by a Service Provider Administrator using the email address that has been provided by the Client in the Client Details section of the Confirmation Form.
- 4 OBLIGATIONS OF THE CLIENT**
- 4.1 The Client agrees to give their full attention to the Service Provider in arranging the necessary documents for the service listed.
- 4.2 The Client agrees to prepare their Accreditation files for submission to the ETQA's within a maximum of a 3 month period from the signature of the Confirmation Form.
- 4.3 Access to all information relevant to the uploading and the online application system will be provided by the Client to the Service Provider.
- 4.4 Permission is given by the Client to the Service Provider to consult with employees, management and ETQA personnel regarding any documentation which may be required for the abovementioned services only.

- 4.5 The Client agrees that it shall have the following documentation available for presentation at the required site visit as part of their files:
- a. Valid Tax Clearance Certificate;
 - b. Comprehensive Business Plan (template provided);
 - c. Proof of registered business entity (CIPRO Documents);
 - d. Annual Financial Statements with 5 Year Financial Budget Forecast;
 - e. CV and Certificates of managing member/s and all employees/subcontractors;
 - f. Public Liability Insurance Certificate or signed SLA with an outsourced Venue Service Provider that has Public Liability Insurance;
 - g. Occupational Health and Safety Compliant Certificate or signed SLA with an outsourced Venue Service Provider that has Occupational Health and Safety Compliant Certificate;
 - h. SAQA Aligned Training Material pack.
 - i. Registered constituent Assessors / Moderators for the Qualification the Client is applying for accreditation
- 4.6 In the event that the Client does not have any of the above documentation in its possession at the time of signature of the Onboarding Form, the Client shall undertake to obtain the documentation within a period of three months from the date of signature. In the event that the Client experiences any delays of whatsoever nature in sourcing such documentation, the Client acknowledges that it shall remain liable for any payment that is outstanding in terms of the agreement between the parties, and that payment shall still remain due, owing and payable on the dates as specified in Item 6 of the Onboarding Form.
- 4.7 The Client agrees that contact with the Service Provider shall be through the specified Client and Service Provider Designated Contacts. The Client is responsible for specifying and updating valid Designated Contacts with person -specific email addresses. Client specific Designated Contacts acknowledge that they are responsible for updating the rest of the Clients' team about the progress and/or challenges experienced by the Service Provider in providing the services set out in the Confirmation Form.

5 ADDITIONAL CHARGES

- 5.1 The parties agree that any and all travelling and accommodation charges that are incurred in respect of the Service Provider's staff attending the Client's premises for consultation purposes or otherwise but limited to the confines of the provision of services in terms of this agreement, shall be an additional fee in excess of the Total Service Fee.
- 5.2 The parties further agree that any and all printing, copying, binding and stationary costs that may be incurred by the Service Provider on behalf of the Client in the preparation of the ETQA Accreditation File and otherwise incurred required for submission of the ETQA Accreditation File to the relevant ETQA shall be for the Client's account, and shall be an additional charge in excess to the Total Service Fee. The client will be provided with a quote to sign off such service before such service is actioned.

6 PAYMENT TERMS

- 6.1 In respect of the primary services as set out in Item 3 of the Onboarding Form, the Service Provider shall charge the Total Service Fee, the amount of which is set out in Item 2 of the Onboarding Form.
- 6.2 Payment of the Total Service Fee shall be made as specified in Item 6 of the Onboarding Form. In the event that payment is not made as specified and the Client's account falls into arrears, the Client's account shall attract interest at a rate of 10% per annum, calculated daily in arrears and compounded monthly, from the date of falling into arrears until the date of full and final payment.
- 6.3 In respect of all invoices that are rendered by the Service Provider in terms of the agreement between the Service Provider and the Client, such shall be due, owing and payable immediately upon presentation. In the event of non-payment, regardless of the stage at which the Service Provider has rendered services to the Client, all work will be stopped until the outstanding payment amount has been received. The Client agrees that the Service Provider cannot be held liable for any damages that the Client may suffer due to any delay that occurs in the completion of the services to be provided by the Service Provider to the Client, of whatsoever nature. The Client agrees to hold the Service Provider indemnified against any and all claims that may arise due to such delays.
- 6.4 The Client acknowledges that due to the nature of the process of accreditation and the services that the Service Provider provides, there shall be a no refunds policy, and further acknowledges that no indemnifications, warranties or guarantees in respect of such accreditation processes and services are provided by the Service Provider to the Client. All payments are made subject to the risk that such accreditation may be denied by the relevant ETQA overseeing the accreditation process, for any reason.

- 6.5 The Client acknowledges that the Service Provider's prices shall escalate annually in line with the Consumer Price Index as published by the Reserve Bank of the Republic of South Africa. Annual increases shall occur on the last day of February each year.
- 6.6 The Client acknowledges that the time allocation as contained in Item 7 of the Confirmation Form is not a definite indication of the time that shall be required for the completion of the Client's project. In the event that the Project is completed within a period that is lesser, there shall be no reduction of the fees charged by the Service Provider, pro rata or otherwise.

7 REMEDIAL ACTION

- 7.1 The parties acknowledge that the accreditation process is solely in the discretion and hands of the relevant ETQA. Accordingly, should the ETQA raise queries of whatsoever nature, the Service Provider shall undertake to assist in advising the Client of any remedial action that may be required to address these queries.
- 7.2 The parties agree that no action may be instituted against the Service Provider resulting from any loss howsoever arising and of whatsoever nature suffered by the Client due to the delay in process caused by any queries that are raised by the ETQA.

8 TRAINING MATERIAL

- 8.1 The parties agree that the Service Provider shall either provide training material to the Client directly, alternatively it shall source an independent material developer for the provision of this service.
- 8.2 The parties further acknowledge that it is a requirement of the ETQA that an agreement be entered into between the Client and the material developer that shall provide the relevant training material to the Client, and that such agreement shall be submitted to the ETQA as part of the accreditation process.
- 8.3 The parties further agree that the relationship in respect of the Client and the material developer shall be governed by the agreement that is provided by the material developer to the Client, which agreement shall be separate from this agreement.

9 NON-DISCLOSURE

- 9.1 Should the Service Provider provide the Client with training material as set out in Clause 8 hereof or any other documents of whatsoever nature, the parties agree that the Client shall be exposed to the Service Provider's intellectual property and confidential information in respect of such training material and other documentation.
- 9.2 For the purposes of this clause, "intellectual property and confidential information" shall mean any and all material or information of whatsoever nature that is commercially valuable to the Service Provider, and that is not generally known or readily ascertainable in the industry. This includes, but is not limited to;
- (a) information concerning the Service Provider's services and products, including product know-how, formulas, designs, devices, software code, processes, inventions, product development, technical memoranda and correspondence;
 - (b) information concerning the Service Provider's business, including costing information, profits, sales information, accounting and unpublished financial information, business plans, markets and marketing methods, client lists and client information, purchasing techniques, supplier lists, supply information and advertising strategies;
 - (c) information concerning the Service Provider's employees, including salary information, strengths, weaknesses and skills earned;
 - (d) any other information not generally known to the public which, if misused or disclosed, could reasonably be expected to adversely affect the Service Provider's business.
- 9.3 The Client will not disclose the confidential information, and shall take all reasonable steps to ensure that the confidential information of the Service Provider shall not be disclosed to others.
- 9.4 The Client further undertakes to only use such intellectual property for the purposes that it is provided, not alter and/or retain such intellectual property for its own purposes, and/or redistribute such intellectual property for its own ends without obtaining the expressly granted permission in writing of the Service Provider.
- 9.5 The Client's obligation to maintain the confidentiality and security of the Service Provider's intellectual property and confidential information remains even after this agreement terminates for whatsoever reason and continues for so long as such intellectual property and confidential

information remains confidential.

- 9.6 Any misappropriation of any of the Service Provider's intellectual property and confidential information in violation of this agreement may cause the Service Provider irreparable harm, the quantum of which may be difficult to ascertain, and therefore the Client agrees that the Service Provider shall have the right to apply to a court of competent jurisdiction for an order enjoining any such further misappropriation and for such other relief as the Service Provider deems appropriate. This right is to be in addition to the remedies otherwise available to the Service Provider in terms of this agreement.
- 9.7 In respect of all information received by the Service Provider in respect of the Client's confidential information, be same for submission to the relevant ETQA or otherwise, the Service Provider undertakes to take all reasonable steps to ensure that such confidential information is not disclosed to any third party other than the relevant ETQA and for no other purpose than submission in terms of this agreement.
- 9.8 The Client specifically grants permission to the Service Provider to store such financial information for a period not exceeding five years. Such confidential information shall be stored for the purposes solely of any further submission or resubmission that may be necessary to the relevant ETQA to assist with accreditation, either in terms of this agreement or any further agreement that may be entered into between the parties.
- 9.9 At the end of the five-year period as referred to in this clause, the Service Provider undertakes to return any and all originals to the Client within a reasonable period of time, and to destroy any and all copies in line with the guidelines as set out in the Protection of Personal Information Act.

10 ASSESSOR / MODERATOR AGREEMENT

- 10.1 The parties acknowledge that it is a requirement of the relevant ETQA that an agreement be entered into between the Client and an Assessor/s and a Moderator/s that shall provide the relevant assessing / moderation services to the Client, and that such agreement shall be submitted to the ETQA as part of the accreditation process.
- 10.2 The parties agree that such agreement between the Client and the Assessors and Moderators shall be governed by the Assessor Moderator Agreement.
- 10.3 In the event that the Service Provider is unable to source an Assessor and/or Moderator for whatsoever reason, including but not limited to ETQA delays, policy shifts or otherwise, the Service Provider accepts no liability for any and all delays caused by such failure and such failure shall not be construed as a breach of this agreement and shall not entitle the Client to terminate this Agreement.
- 10.4 In the event that the Service Provider is unable to source an Assessor or Moderator, the Service Provider shall advise the Client how to have their own employees registered with the relevant ETQA to provide such Assessor/Moderator services.

11 MONTHLY RETAINER

In the event that the Client wishes to engage the services of the Service Provider for monthly retainer services to ensure that they remain accredited once the Client's project is completed, the parties agree that the following conditions set out in this clause shall apply:

- 11.1 Monthly retainer services shall be provided according to the package elected by the Client, such packages and services will be quoted separately as per the Service Providers offering at the time of service
- 11.2 Monthly retainers are time based and the Service Provider will schedule times to meet on an agreed basis in order to assist the Client in the service requested

12 "DOMICILLIUM

- 12.1 For all the purposes of this agreement or about any matter arising herein or in connection herewith, the parties hereby choose the addresses as set out in the Confirmation Form to which these Terms and Conditions relate as their *domicilium citandi et executandi*.
- 12.2 Should either party wish to change its chosen address, it may do so by informing the other party in writing within 14 days of such change of address.

13 NOTICE

- 13.1 The parties agree that in the event of email correspondence, such correspondence is deemed to have been received immediately as indicated in the date and time stamp in the email correspondence referred to.

13.2 In respect to facsimile correspondence, the parties agree that such correspondence shall be deemed to have been received at the close of business on the day that such facsimile transaction was sent, as evidenced in the transmission report attached thereto.

13.3

13.4 In respect of SMS (Short Message Service) correspondence that is sent to the agreed cellular telephone numbers as set out in Item 6 to that of the Schedule hereto, the parties agree that all such correspondence shall be deemed to have been received by the close of business on the date that such correspondence was actually sent.

13.5 In respect of postal correspondence, such correspondence will be deemed to have been received seven days after the date that such correspondence was sent, as evidenced by a valid registered postage slip.

14 BRIBERY AND CORRUPTION

14.1 The Service Provider specifically records that it is an ethical and proudly South African corporate entity, and does not enter into any bribes with ETQA officials or any other official representatives to speed up the process or to look the other way.

14.2 If the Service Provider becomes aware that the Client is trying to bribe and/or improperly influence a ETQA official or any other representative in any way whatsoever, this Service Level Agreement will be cancelled forthwith by way of written notice to the Client.

14.3 If a cancellation as set out in Clause 14.2 takes place, no funds currently being held as a deposit at the time of cancellation shall be returned to the Client, and such funds shall immediately be forfeited to the Service Provider. The parties further agree that all obligations that the Service Provider may owe to the Client shall no longer be owing, and no action may be taken on the part of the Client to enforce such obligations.

14.4 The Client hereby indemnifies the Service Provider as against any and all claims arising of whatsoever nature in respect of any outstanding services and agreements that may have to be cancelled due to any bribery and/or improper influence that may lead to a cancellation of this agreement as set out in Clause 14.2 above.

14.5 It is specifically agreed that the right of termination as set out in this clause shall be in addition to any other right of termination as set out elsewhere in this agreement.

15 WHOLE AGREEMENT, NON-WAIVER AND SEVERABILITY

15.1 These Terms and Conditions shall be the entirety of the agreement as entered into between the parties. No alteration of this agreement of whatsoever nature shall be of any force and effect unless reduced to writing and consented to by signature by both parties.

15.2 No extension of time or other relaxation of any right in terms of this agreement granted by the Service Provider to the Client shall be construed as a waiver by the Service Provider of or in any way prejudice the Service Provider's rights in terms of this agreement.

15.3 The parties agree that every part, clause and/or annexure to this Service Level Agreement shall be interpreted to be severable, without such severability effecting the remaining obligations contained in the agreement. In the event of any part, clause and/or annexure to this Service Level Agreement being found to be unenforceable, invalid or illegal for whatsoever reason, then the parties specifically agree that such unenforceability, invalidity or illegality shall not affect the remaining provisions of this Service Level Agreement, and the remaining obligations shall survive to be validly enforceable.

16 SURETYSHIP

16.1 The Directors/Members as recorded in the Onboarding Form hereby bind themselves jointly and severally as sureties and co- principal debtors *in solidum* for the indebtedness generally of the Client to the Service Provider howsoever arising.

16.2 The sureties renounce the benefits of excussion and division and no value received, the full force and meaning and effect of which the sureties acknowledge himself/herself/themselves to be fully acquainted.

16.3 The sureties agree that all admissions and acknowledgements of indebtedness made by the Client to the Service Provider shall be binding upon them at all times and in all circumstances.

16.4 The sureties agree further that the Service Provider shall be at liberty without appraising them or without affecting the rights of the Service

Provider or affecting their liability hereunder to release a surety or sureties and/or to grant extensions of time for performance of any or all obligation/s whether such extensions be granted before or after the due date for performance thereof and/or to make other arrangements with the Client or with any other sureties for and/or on behalf of the Client regarding the extinguishing of the principal debt. No variation of the terms of the Client's liability shall in any way affect their liability hereunder, or the terms and conditions of the surety's liability hereunder.

- 16.5 The Sureties agree that the suretyship shall remain in force as a continuing suretyship notwithstanding any intermediate settlement of account.
- 16.6 The sureties shall be released from any liability hereunder or from any of the Client's obligations upon the written consent and approval of the Service Provider's duly authorised signatory and full settlement of any outstanding principal debt.
- 16.7 In the event of the Client being placed under judicial management, or being wound up either voluntarily or compulsorily under the laws relating to the winding up of companies, or should the Client compound its liability to any one or more person or persons or in the event of the Client becoming or being declared insolvent, then the whole of the liability to the Service Provider hereunder shall become immediately due and payable and the Service Provider shall be entitled immediately upon the happening of such event to claim payment from the sureties, notwithstanding the fact that the liability of the Client may fall due only after the happening of any such event.
- 16.8 The Service Provider shall have the same rights against the sureties should the Client dispose of any business and/or other assets otherwise than in equal ordinary course of business and also any and/or suffer any judgement to be entered against it and or have any execution levied upon its assets or any part thereof and/or pass any notarial bond over its assets or do anything which has or will have the effect of prejudicing the Service Provider or of preferring any one creditor above another.
- 16.9 For the purposes of any legal proceedings arising out of or in connection with this deed of suretyship, the sureties hereby choose *domicilium citandi et executandi* at the address as set out in the Confirmation Form.

17 BREACH

- 17.1 In the event of the Client breaching the terms of this agreement by failing to make payment as and when such payment is due and owing, the Service Provider shall forward written notice of such breach to the Client, affording the Client seven days within which to remedy such breach.
- 17.2 Should the Client fail to remedy such breach by non-payment to the satisfaction of the Service Provider within the above-mentioned time, the Service Provider shall be entitled to terminate this agreement immediately thereafter.
- 17.3 In the event of termination of this agreement in terms of Clause 17.2, such termination shall not affect the obligation of the Client under this agreement, and any and all monies outstanding in terms of this agreement shall become immediately due, owing and payable.
- 17.4 In the event that the Service Provider is required to commence litigation in order to enforce its rights in terms of this agreement and recover monies due owing and payable to it in terms of such agreement, the Client specifically agrees that it shall pay the costs of the Service Provider on an Attorney and Client Scale.

18 DISPUTE RESOLUTION

- 18.1 The parties acknowledge that a relationship of trust exists between them and undertake to ensure that at all times they shall act reasonably and in good faith in all their dealings with one another.
- 18.2 In the event of any dispute or conflict in the interpretation of this agreement or breach (other than breach by non-payment) of this agreement arising, the parties shall attempt to resolve the dispute between themselves amicably and agree to take all reasonable steps necessary to ensure that amicable resolution of the dispute, conflict or breach is achieved.
- 18.3 Should the parties not be able to resolve the matter amicably within ten (10) days, then the aggrieved party shall forward a written notice of such dispute to the other party.
- 18.4 If the matter is of an accounting nature, then the matter shall be referred to the Service Provider's accountant at the time of notice of dispute being given for determination. The determination of the Service Provider's accountant shall be final and shall be binding on both parties.
- 18.5 If the matter is of a legal nature or involves the interpretation of this agreement, then the matter shall be referred to an independent Attorney

registered with the KwaZulu Natal Law Society, having a minimum of five years' experience, for arbitration.

- 18.6 Both parties shall nominate two preferred candidates regarding their preferred Attorney for determination of the dispute within 5 days of the written notice referred to in Clause 18.3 being supplied.
- 18.7 The parties will thereafter have 5 days within which to agree as to the preferred Attorney that shall determine the outcome of the dispute.
- 18.8 Should the parties be unable to agree as to the Attorney that shall determine the dispute within the time period as stipulated in Clause 18.7, then the matter shall be referred to the Chairman of the Arbitration Foundation of South Africa (or its successor) for determination, whose election shall be binding on the parties.
- 18.9 The decision of the Arbitrator that attends to the arbitration shall be final and shall be binding on both parties.
- 18.10 The costs of the arbitration proceedings shall be borne by the party against whom the ultimate finding is made.

19 PERIOD OF AGREEMENT

- 19.1 The Agreement between the parties will be effective from the date of signature of the Onboarding Form and shall remain in place until such time as the Client's project has been completed by means of an ETQA Accreditation Report and / or to the satisfaction of the Client.
- 19.2 The parties agree that this agreement shall be reviewed on an annual basis, the date of signature of the Onboarding Form being the anniversary date of the agreement.