

# EdApp Terms and Conditions

## Part A: General Terms

### 1. Your Acceptance

- a) This agreement (**Agreement**) governs our products and services (**Services**) provided to you through our website at edapp.com (**Site**), online application suite (**EdApp Platform**) or that we otherwise provide or make accessible to you and the seats (being the named individual users of the Services) that you nominate (**End Users**).
- b) This Agreement is between the EdApp entity that owns or operates the Services that you are using or accessing (as specified at <https://safetyculture.com/legal/safetyculture-group/>) (**EdApp, us, we, or our**) and the person or entity agreeing to these terms (**you**).
- c) You warrant that you are over the age of eighteen and have the power and authority to enter into and perform your obligations under this Agreement. If you enter into this Agreement on behalf of your company, then "you" in the remainder of this Agreement means your company, and you warrant that you are properly authorised to bind your company to this Agreement.
- d) You agree to the terms of this Agreement when you submit an Order or create an account on the Site or EdApp Platform. This Agreement becomes binding on the date that we accept your Order or first make the Services available to you, whichever is earlier (**Commencement Date**).

### 2. Scope

- a) This Agreement comprises:
  - i. these terms and conditions (**General Terms**);
  - ii. the terms specified in the relevant order form completed pursuant to section (12) (**Order Form**);
  - iii. the terms applicable to each Service set out in product modules in Part B of this Agreement (**Product Modules**); and
  - iv. the [Privacy Policy](#), [Acceptable Use Policy](#), and any other EdApp policies and attachments posted at Site or the EdApp Platform, each of which may be modified from time to time (**EdApp Policies**).
- b) If any of the terms listed in this section (2)(a) are inconsistent, the terms first listed will have priority to the extent of any inconsistency.

### 3. Services

- a) The Services include:
  - i. all services, technology, data, information, programs, material and other content that we make accessible to you through the Site or the EdApp Platform, including on any desktop, mobile telephone or handheld device (**Device**) owned or controlled by you or your End Users (**Subscription Services**); and
  - ii. any other services that we otherwise provide to you, including professional services, but excludes:
  - iii. data, information, templates, content, code, video, images or other materials or information of any type that you upload to the EdApp Platform, or otherwise provide to us in connection with the Services (**Your Data**);
  - iv. Your Modifications (as defined in section (8)(a)); and
  - v. shared materials created by EdApp, you or other users of the Services that are published or made accessible through the Site and EdApp Platform, including in the "Course Library" (**Shared Materials**).

- b) EdApp reserves the right to make changes to the Subscription Services in its sole discretion from time to time, including the functionality, performance, user interface, usability, and the service description published on the Site or that EdApp provides to you (**Service Description**), and you agree that this Agreement will apply to any changes or updates to the Subscription Services. EdApp will notify you of any change to the Subscription Services (other than No-Charge Services) that reduces its functionality or features in any material respect or if it discontinues any Service and is not replaced by a substantially equivalent function or feature. If EdApp has notified you under this section (3)(b), you may terminate the affected Services upon providing notice to EdApp within 30 days after the date of such notice, and EdApp will refund any prepaid, unused Fees in respect of any terminated Subscription Services. Nothing in this section (3)(b) limits EdApp's ability to discontinue any Service or to make changes as required to comply with applicable law, address a material security risk, or avoid a substantial economic or technical burden.
- c) We will make the Services available to you and your End Users solely for your internal business operations during the subscription period specified in your Order (**Subscription Term**) and in accordance with any usage restrictions specified in the applicable Order and Product Module.
- d) Unless permitted by law or as otherwise expressly permitted in this Agreement, you must not (nor may you authorise any third party to):
  - i. rent, lease, distribute, license, sublicense, sell, transfer, assign, distribute or otherwise provide access to the Subscription Services to a third party;
  - ii. reproduce, modify, adapt, create derivative works of, the Subscription Service or remove or tamper with any disclaimers or other legal notices in the Subscription Services;
  - iii. reverse engineer, disassemble, decompile, transfer, exchange or translate the Subscription Service or otherwise seek to obtain or derive the source code or API;
  - iv. incorporate the Subscription Services into any service that you provide to a third party;
  - v. store or use any part of the data you do not own in an archival database or other searchable database; or
  - vi. use the Subscription Services to provide services, or to create a service that competes with the Subscription Services.
- e) You must promptly notify us in writing of any breach of any conditions of use specified in section (3)(d).
- f) You are solely responsible for ensuring that your Devices and systems are compatible with the Subscription Services and meet any minimum requirements specified on the Site.

#### 4. No Charge Services

We may offer certain Services to you at no charge, including free accounts, trial use, and access to pre-release and beta products (**No-Charge Services**). Your use of No-Charge Services is subject to any additional terms that we may specify from time to time and is only permitted for the period designated by us, or if no such period is designated, 30 days. We may terminate your right to use No-Charge Services at any time and for any reason in our sole discretion, without liability to you.

#### 5. Your Accounts

- a) You must register for an account in order to access or receive the Services and to receive notices and information from us (**Customer Account**).
- b) All End Users must establish a named account on the EdApp platform (**End User Account**). You may specify one or more administrators who may elect to have password protected rights to access administrative account(s) (**Admin Account(s)**) to administer the Subscription Services and End User Accounts.

- c) You are responsible for all actions taken through your Customer Account, all End User Accounts and Admin Accounts under your Customer Account (together, **Your Accounts**). Your responsibilities include:
  - i. maintaining the confidentiality of the passwords associated with each of Your Accounts;
  - ii. ensuring that only those individuals authorised by you have access to Your Accounts; and
  - iii. ensuring that all activities that occur in connection with Your Accounts comply with this Agreement.

## 6. Integration with Third Party Products

You may choose, in your sole discretion, to integrate the Services with third party products or services (**Third Party Products**). If you choose to use any Third Party Products in connection with the Services, we may provide such third parties access or use of Your Data to the extent required for the interoperation of the Services with the Third Party Product. Your use of any Third Party Product will be subject to the applicable agreement between you and the relevant third party provider. We are not responsible for any access to or use of Your Data by such third party providers. WE DISCLAIM ALL LIABILITY FOR ANY THIRD PARTY PRODUCTS AND FOR THE ACTS OR OMISSIONS OF ANY THIRD PARTY PROVIDERS OF THIRD PARTY PRODUCTS.

## 7. Intellectual Property Rights

- a) EdApp and its licensors have and retain all rights, title and interest, including all intellectual property rights, copyright, trade or service marks, designs, patents, rights in circuit layouts, domain names and trade names anywhere in the world (**Intellectual Property Rights**) in and associated with the Services.
- b) You and your licensors retain ownership of all rights, including Intellectual Property Rights, in Your Data.
- c) You grant to us, or must procure the grant to us of, a non-exclusive, worldwide, irrevocable, royalty-free licence (including the right to sublicense) to use and develop the Intellectual Property Rights in Your Data to the extent required to:
  - i. enable us to exercise our rights and discharge our obligations under this Agreement, including to provide or support the Services, and to offer to provide you with any other goods or services (including other products); and
  - ii. generate aggregated data sets, reports and analysis relating to technical data about customer use of the Services in a form that is anonymised and does not identify you or any individual (**Aggregated Data**). You acknowledge and agree that we will own all Intellectual Property Rights in Aggregated Data.
- d) We may use Aggregated Data to analyse, improve, support and operate the Services and for related internal business purposes.

## 8. Your Data and Your Modifications

- a) To the extent permitted by the functionality provided by a Subscription Service, you may modify a template, training course or lesson on the Subscription Services for the purposes of developing customisations and additional features of a template, training course or lesson (**Your Modifications**).
- b) If you elect to publicly share any of Your Data or Your Modifications with us or other users through the functionality provided by the Subscription Services (**Your Shared Materials**), you grant us and each other user that downloads Your Shared Materials a non-exclusive, worldwide, perpetual, irrevocable, royalty-free licence (including the right to sublicense) to use, develop, modify, reformat, publish, distribute to third parties, and exercise any other Intellectual Property Rights you have in Your Shared Materials.
- c) You warrant that Your Data and Your Modifications (including any of Your Shared Materials):
  - i. are not unlawful, defamatory, offensive, obscene, harmful, of bad taste, or inappropriate;
  - ii. comply with the EdApp Policies, including the Acceptable Use Policy;
  - iii. are not false, misleading or inaccurate;
  - iv. do not infringe third party rights (including Intellectual Property Rights);
  - v. comply with all applicable laws; and

- vi. are not infected with viruses or any other malicious computer code, files or programs.
- d) You acknowledge and agree that we may remove, delete, or modify any of Your Data or Your Modifications (including any of Your Shared Materials) from the Subscription Services, Site and EdApp Platform if we suspect (acting in good faith) that any of the warranties set out in sections (8)(c)(i) to (8)(c)(vi) are or are likely to be untrue.
- e) You acknowledge and agree that you are responsible for preparing backups of Your Data and Your Modifications.
- f) You must indemnify, defend and hold us, our affiliates, service providers, officers, employees, contractors and customers (**those indemnified**) harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees) arising out of or in connection with any claim brought against those indemnified by a third party relating to Your Data or Your Modifications (including Your Shared Material), including but not limited to any claim relating to infringement of law or the rights of a third party (including Intellectual Property Rights), or any representations or warranties that you make about Your Data, Your Modifications or the Services. We agree to provide: (i) prompt written notice to you of any such claim; (ii) the exclusive right to control and direct the investigation, defence, or settlement of such claim; and (iii) all reasonably necessary cooperation from us at your expense.

## 9. Downloading Shared Materials

If you download Shared Materials, to the extent permitted by law:

- a) your use of Shared Materials is at your own risk;
- b) we exclude all liability to you and any third party in respect of your use of Shared Materials; and
- c) it is your responsibility to assess (and if necessary, obtain professional advice on) the suitability of Shared Materials for your purposes and any modifications required to meet those purposes.

## 10. Confidentiality

- a) In this Agreement, **Confidential Information** of a party means information of a confidential nature including information about its business, operations, strategy, administration, technology, affairs, clients, customers, employees, contractors or suppliers, but does not include any Shared Materials, or any other information which is in the public domain other than through a breach of confidence.
- b) Each party (**Recipient**) must keep confidential and not disclose to any third party Confidential Information of the other party, with the exception that a Recipient may disclose such Confidential Information:
  - i. to a third party with the prior written consent of the other party;
  - ii. to the Recipient's, or affiliates or subsidiaries of the Recipient's, officers, agents, professional advisers, employees, contractors, subcontractors, auditors and insurers; and provided that such recipients are subject to confidentiality obligations no less stringent than under this Agreement in relation to that Confidential Information; and
  - iii. where the Recipient is legally compelled to do so by any government or any governmental, administrative, regulatory, fiscal or judicial body, department, commission, authority, tribunal, or agency, provided that it first uses commercially reasonable efforts to give the other party written notice prior to disclosure if permitted by law.
- c) Each party must only use Confidential Information of the other party for the purpose for which it was disclosed in connection with this Agreement.

## 11. Privacy

- a) In this section (11), **Personal Information** has the meaning given under the *Privacy Act 1988* (Cth), or the meaning given to any similar term under other applicable privacy or data protection laws that is used to describe information relating to an individual.

- b) We will take reasonable steps to ensure that Personal Information within Your Data is secure from unauthorised access, use or disclosure and will treat any Personal Information collected from you in accordance with the EdApp Privacy Policy.
- c) You will comply with all applicable privacy and data protection laws and are responsible for ensuring that you have obtained all individual consents required for us to provide the Services in respect of any Personal Information contained within Your Data, including from your End Users.
- d) Where: (i) the EU General Data Protection Regulation 2016/679 (**GDPR**); and/or (ii) the laws of other states and territories that create and regulate substantially similar concepts and legal principles as are contained in the GDPR apply to any of Your Data, the terms of Appendix 1 (Data Protection Compliance) and Appendix 2 (Data Processing Agreement) will apply.
- e) Where the *Privacy Act 1988* (Cth) applies to any of Your Data, the terms of Appendix 3 will apply.
- f) Other than as expressly noted in this section (11), you acknowledge that:
  - i. the Services have not been designed to meet the requirements of laws or standards that may apply to you in respect of Your Data, including without limitation, the *Health Insurance Portability and Accountability Act 1996*, the Payment Card Industry Security Standards, or any other law or standard applicable to the handling, storage, processing, transfer, security or location of Your Data in any jurisdiction; and
  - ii. it is your responsibility to satisfy yourself that your use of the Services will allow you to meet any legal obligations applicable to you in respect of Your Data, and we disclaim all liability for your non-compliance with any such laws or standards arising from your use of the Services.

## 12. Orders

To use the Services you must complete an Order by either:

- a) completing the online order page (**Online Order**) located on the Site which contains details of:
  - i. the Services being ordered;
  - ii. the applicable fees (**Fees**);
  - iii. the number of paid End User Accounts that will form part of your organisation in respect of Subscription Services (if applicable);
  - iv. the Subscription Term applicable to any Services;
  - v. the applicable billing details, and the currency in which you will be billed; and
  - vi. if applicable, details other products made available by us in the future you wish to order; or
- b) execute a paper-based Order Form or Statement of Work (**Order Form/SOW**) provided by us which sets out the relevant information in section (12)(a).

## 13. Billing and Payment

- a) You must pay all Fees for the Services in accordance with the rates and currency set out in the applicable Order(s). Other than where expressly provided for under this Agreement, all Fees are non-refundable, non-cancellable and non-creditable.
- b) Unless otherwise set out in the relevant Order, you will be billed the Fees in accordance with the Order as follows:
  - i. for Subscription Services, you must elect one of the following billing cycle options:
    - a **Monthly Plan**, in which case you will be billed the applicable Fees monthly; or
    - an **Annual Plan**, in which case you will be billed the applicable Fees annually; or

- ii. for Services other than Subscription Services, you will be billed the applicable Fees in accordance with the payment milestones specified in your Order, or if none are specified, in advance upon submitting the relevant Order. Services other than Subscription Services may be charged on a “fixed-fee” or “time and materials” basis, as specified in the relevant Order.
- c) If you add End Users during your Subscription Term or exceed any limit on End Users specified in the relevant Order, you will be billed the applicable Fees for the increased number of End Users at the then-current rates or as otherwise set out in the applicable Order(s) for the remainder of the then-current Subscription Term.
- d) Your Order, and any other amounts owing to EdApp will be billed using one of the following methods (as specified in your Order):
  - i. by direct debit of your credit card or debit card (**Direct Debit**), in which case you authorise EdApp to debit you in the month after the commencement of the monthly billing cycle;
  - ii. by issuing an invoice in accordance with the billing cycle or payment milestones specified in your Order (**Invoiced Payments**). You must pay any Invoiced Payment within thirty (30) calendar days after the date of invoice; or
  - iii. by such other forms of payment that EdApp makes available on the Site, which may be subject to additional terms and conditions.
- e) If you dispute any invoice or charge that EdApp has billed you (acting reasonably and in good faith) you must notify EdApp of the dispute without unreasonable delay.
- f) You are responsible for any duties, customs fees, or taxes (other than our income tax) associated with the supply of the Services or any other goods or services provided by us to you, including any VAT, GST or other applicable sales tax, and any related penalties or interest (**Taxes**), and you will pay us for the Services without any withholding for Taxes. If we are required to collect or pay Taxes, the Taxes will be invoiced to you. You must provide us with any information that we reasonably request to determine whether we are obliged to collect Taxes from you, including your relevant Tax identification number.

#### 14. Warranties and Limitation on Liability

- a) We warrant that:
  - i. Subscription Services (other than No-Charge Services) will conform in all material respects with the applicable Service Description for the duration of the Subscription Term; and
  - ii. we will use commercially reasonable efforts to prevent introduction of viruses, Trojan horses or similar harmful materials (**Malicious Code**) into the Subscription Services. To avoid doubt, we are not responsible for any Malicious Code introduced by third parties, or by you or your End Users.
- b) Provided that you notify us in writing of any non-compliance under section (14)(a) promptly after becoming aware of such non-compliance, we will use commercially reasonable endeavours to correct the non-compliance within a reasonable period. If we have not remedied the non-compliance by the date that is forty-five (45) days after your written notice, either party may terminate the affected Subscription Services immediately, and EdApp will refund any prepaid, unused Fees in respect of the terminated Subscription Services after the effective date of termination.
- c) SECTION 14(A) CONSTITUTES YOUR EXCLUSIVE RIGHTS AND REMEDIES, AND OUR SOLE LIABILITY, IN CONNECTION WITH THE WARRANTIES IN SECTION 14(A). YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF WARRANTIES REQUIRED BY STATUTE, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

- d) Except as expressly stated in this Agreement or required under any applicable law, the Services and any other goods or services provided by us to you are provided on an “as is” basis, and we do not make any representation or warranty (express or implied) in respect of the Services or any other goods or services provided by us to you, including, without limitation, any implied warranty of merchantability, of fitness for a particular purpose, that operation of the Services will be uninterrupted or error free, or that all defects will be corrected.
- e) If you reside in Australia and are a “consumer” for the purposes of the Australian Consumer Law, then the provisions in section (2) of Appendix 3 will apply.
- f) Without limiting the above, you acknowledge that:
  - i. you are using the Services at your own risk;
  - ii. the Services, or any available Shared Materials, are not a substitute for professional advice; and
  - iii. you are solely responsible for the use of the Services and the Shared Materials.
- g) To the maximum extent permitted by law, in no event will EdApp be liable to you or any third party in connection with this Agreement, whether in contract, tort, equity, statute or otherwise for:
  - i. your misuse of the Services, acts or omissions of your personnel;
  - ii. Service outage or interruption, or any damage or losses, arising from networks or websites outside of our control;
  - iii. any injury, damage to property, or loss to any person in relation to your use of the Services;
  - iv. subject to section (11), breach of any law applicable to your business activities, including but not limited to any work health and safety or food safety law, in connection with your use of the Services; or
  - v. loss of profits, loss of revenue, loss of anticipated savings, loss of use, loss or corruption of data, costs of delay or procurement of substitute or replacement goods and services, business interruption, failure of security mechanisms, loss of goodwill, and any other form of indirect, incidental, special or consequential or punitive damages.
- h) To the maximum extent permitted by law, in no event will either party’s aggregate liability for any claims in connection with this Agreement exceed the total Fees actually paid by you under this Agreement during the twelve-month period immediately prior to the event giving rise to the liability.

## 15. IP Indemnity

- a) Subject to section (15)(c), we will defend you against any third party claim alleging that the Subscription Services infringes any copyright or any patent (a **Claim**), and will indemnify you against any damages and costs finally awarded by a court of competent jurisdiction or any settlement amounts agreed in writing by us, provided that you provide to us:
  - i. prompt written notice of any such claim;
  - ii. the exclusive right to control and direct the investigation, defence, or settlement of such claim; and
  - iii. all reasonably necessary cooperation and assistance in the defence and investigation of the Claim at our expense.
- b) In the event of a Claim, we may, in our sole discretion:
  - i. procure the right for your continued use of the Subscription Services in accordance with this Agreement;
  - ii. replace the Subscription Services with a similar service with materially equivalent functionality; or
  - iii. terminate your Order in respect of the Subscription Services affected by the Claim and refund any prepaid, unused Fees in respect of the terminated Subscription Services.
- c) The indemnity obligation in this section (15) will not apply to the extent that any Claim arises:
  - i. in connection with your use of No-Charge Services;

- ii. as a result of misuse of the Subscription Service or use of the Subscription Service with any third party data (including any Shared Materials), or in combination with any Third Party Products other than that for which the Subscription Services were designed or provided;
  - iii. as a result of modification to the Service made by any party other than us or our subcontractors; or
  - iv. in connection with circumstances covered by your indemnification obligations under section (8)(f).
- d) THIS SECTION (15) CONSTITUTES YOUR EXCLUSIVE RIGHTS AND REMEDIES, AND OUR SOLE LIABILITY, FOR ANY INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH ANY SUBSCRIPTION SERVICES.

## 16. Term and Renewal

- a) This Agreement commences on the Commencement Date and expires when all Subscription Terms have expired, and all other Orders have been completed, unless otherwise terminated in accordance with this Agreement (**Term**).
- b) Unless otherwise set out in the relevant Order, each Subscription Term will automatically renew for periods equal to the initial Subscription Term at the then-current rates unless either party elects not to renew the Subscription Term by providing written notice to the other party at least 30 days prior to the expiry of the then-current Subscription Term, in which case your subscription will expire at the end of the then-current Subscription Term.

## 17. Termination and Suspension

- a) You may terminate the Services at any time by written notice or by following the online process specified on the Site for cancelling your Subscription Term. If you choose to terminate this Agreement in accordance with this section (17)(a), you will not be entitled to any credits or refunds as a result of such termination.
- b) Either party may terminate this Agreement in whole or part, including any particular Order(s), immediately upon providing notice to the other party if:
  - i. the other party is in material breach of this Agreement and does not cure the breach within thirty (30) days after written notice of the breach; or
  - ii. if the other party ceases to operate, has an administrator appointed, enters a deed of company arrangement or other form of administration involving one or more of its creditors, is subject to an order that it be wound up, declared bankrupt, or that a liquidator or receiver be appointed, or otherwise becomes insolvent or is unable to meet its financial obligations.
- c) We may suspend the Services (including any of Your Accounts) immediately, or terminate this Agreement in whole or part, including any particular Order(s), if:
  - i. you are in material breach of this Agreement more than two times during the Term notwithstanding any cure of such breaches;
  - ii. you have failed to pay any Fees within sixty (60) days after the relevant due date;
  - iii. you infringe our Intellectual Property Rights; or
  - iv. your use of the Services breaches any applicable law or any of the EdApp Policies.We will notify you of any suspension or termination under section (17)(c) (where practicable).
- d) If we suspend your use of the Services pursuant to our rights under this Agreement:
  - i. we will continue to charge you Fees during the suspension period and you must pay any outstanding Fees prior to us resuming the provision of the Services; and
  - ii. we will only resume the provision of the Services once you have cured (to our reasonable satisfaction) the matter that caused the suspension.

## 18. Consequences of Termination



- a) Upon the date that this Agreement or any Order expires or is terminated, then:
  - i. subject to any further access to the Subscription Services granted by us under section (18)(b)(ii), you and your End Users must cease all access and use of the relevant Services, Your Modifications and any Shared Materials;
  - ii. if the Agreement or any Order is terminated:
    - by you for our breach, then we will refund any prepaid, unused Fees that relate to the terminated Subscription Services; or
    - by us for your breach, then you must pay to us any and all outstanding Fees due for the remaining duration of any Subscription Term, which will become immediately due and payable upon termination;
  - iii. you must delete any software or other materials that we have provided to you, or made accessible for download by you, for use in connection with the Services (including any Shared Materials) from any Devices; and
  - iv. you must return, or if requested by us, destroy all of our Confidential Information in your possession or control and provide written certification to us that you have done so.
- b) Within thirty (30) days after the effective date of expiry or termination of this Agreement, you must notify us if you would like Your Data returned to you or deleted. If you notify us that you elect to have Your Data:
  - i. deleted (or fail to provide us with notice of your election), then we will delete Your Data by removing pointers to it on our active and replication servers and overwriting it over time; or
  - ii. returned, we will, at your election, use commercially reasonable endeavours to deliver Your Data to you, or provide you access to the relevant Subscription Service (other than a No-Charge Service) to access Your Data for a period of up to 30 days following the date of termination or expiry provided that you continue to pay us the then-current rates for the applicable Subscription Services in respect of that period.
- c) The following provisions will survive any termination or expiration of this Agreement: sections 7, 8(b), (8)(c), (8)(f), (9), (10), (13), (14), (15), (18), (20) and any other sections which by intent or meaning have validity beyond termination or expiration of this Agreement.

## 19. Amendments

We may update or modify the terms of this Agreement from time to time, including the EdApp Policies and any other referenced documents (including the Service Descriptions) to respond to changes in our products, services, business or as required by law, by giving notice to you. If an update or modification to the terms of this Agreement materially reduces your rights, you may terminate this Agreement upon providing notice to us within 30 days after the date of our notice to you under this section (19) (with such termination to be effective on the date of your notice or the effective date of the update or modification, whichever is later), and we will refund any prepaid, unused Fees in respect of any terminated Subscription Services.

## 20. General

- a) Unless otherwise agreed in your Order, the laws governing this Agreement and the courts exercising exclusive jurisdiction depend on where you are domiciled (as specified at <https://safetyculture.com/legal/safetyculture-group/>).
- b) If any provision of this Agreement is held to be invalid, illegal, or unenforceable that provision shall be deemed omitted to the extent that it is invalid, illegal, or unenforceable and the remainder of this Agreement shall be construed in a manner as to give greatest effect to the original intention of this Agreement.
- c) The failure of either party to exercise any right provided in this Agreement in any instance will not be deemed to be a waiver of such right.
- d) Except where an exclusive remedy is specified in this Agreement, the exercise by either party of any remedy, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

- e) Other than in respect of an obligation to pay any Fee or other amount, neither party will be liable for non-performance or inadequate performance to the extent caused by a condition (for example, natural disaster, act of war or terrorism, pandemic, riot, labour condition, governmental action, power interruption, telecommunication, data and internet disturbance) that was beyond the party's reasonable control (Force Majeure Event).
- f) Your use of any website or software that is not provided by us to access or download the Services will be governed by the terms and conditions applicable to that website or software. We are not responsible for any consequences resulting from the use of such website or software, including but not limited to any damage to your property, including your Device, or the transfer of any computer virus or similar malicious code, except to the extent such consequences are caused by the Service.
- g) Any notices to you may either be posted on the Site or EdApp Platform, or given in writing (which may be by email) to the address last notified by you to us. Any notices to EdApp, and any questions, concerns or complaints relating to the Services must be in writing and addressed to:
  - i. [privacy@edapp.com](mailto:privacy@edapp.com), if the inquiry is related to privacy or your Personal Information;
  - ii. [hello@edapp.com](mailto:hello@edapp.com), if the inquiry is related to support or billing; or
  - iii. [legal@edapp.com](mailto:legal@edapp.com), for all other enquiries.
- h) Each party agrees to use commercially reasonable endeavours to resolve any dispute arising out of or relating to this Agreement with the other party prior to resorting to any external dispute resolution process or court proceedings.
- i) This Agreement, and any rights granted hereunder, must not be transferred or assigned by either party (assigning party) without the prior express written consent of the other party, except:
  - i. to a third party participating in a merger with, or acquisition of the assigning party; or
  - ii. in respect of EdApp, to any of EdApp's affiliates or subsidiaries.
- j) This Agreement contains the entire understanding between the parties regarding the subject matter of this Agreement. To avoid doubt, resellers of the Services are not authorised to modify the terms of this Agreement or make any representations, undertakings or other legally binding commitments on our behalf.
- k) If this Agreement is translated into any language other than English, the English text will govern unless expressly stated otherwise in the translation.

## Appendix 1 (Data Protection Compliance)

(1) In this Appendix and in Appendix 2 (Data Processing Agreement):

- a) **Customer Personal Data** means any personal data which EdApp (or its sub-processors) processes on your behalf as a processor in the course of providing Services.
- b) **Data Protection Laws** means: (i) the EU Data Protection Laws; (ii) the UK Data Protection Laws; and (iii) the laws of other states and territories that create and regulate substantially similar concepts and legal principles as are contained in the EU Data Protection Laws in relation to the processing of personal data.
- c) **EU Data Protection Laws** means the GDPR and any national laws which implement or supplement or replace the same from time to time.
- d) **EU International Transfer** means:
  - (i) a transfer of personal data from you to EdApp or its affiliates (or vice versa in the case of transfers of personal data between the parties where both parties act as controllers); or
  - (ii) an onward transfer of personal data from EdApp or its affiliates,

where such transfer would at the time of the transfer be prohibited by EU Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws) in the absence of the EU Standard Contractual Clauses to be established under section 2 of Appendix 2 (Data Processing Agreement).

- e) **EU Standard Contractual Clauses** means the Standard Contractual Clauses forming part of Decision 2021/914/EC (as amended or replaced from time to time), including their appendices and with the relevant Modules and Options set out under section 2 of Appendix 2 (Data Processing Agreement).
- f) **Security Incident** means a breach of EdApp's security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Customer Personal Data.
- g) **personal data, consent, controller, processor, data subject and processing** mean those concepts, roles and activities as defined in the applicable Data Protection Laws.
- h) **UK Data Protection Laws** means Data Protection Act 2018 and UK's version of the GDPR which is part of UK law by virtue of the European Union (Withdrawal) Act 2018 ("**UK GDPR**") and any legislation applicable in the UK in force from time to time relating to privacy or the processing of personal data.
- i) **UK International Transfer** means:
  - (i) a transfer of personal data from you to EdApp or its affiliates (or vice versa in the case of transfers of personal data between the parties where both parties act as controllers); or
  - (ii) an onward transfer of personal data from EdApp or its affiliates,

where such transfer would at the time of the transfer be prohibited by the UK GDPR (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws) in the absence of the relevant UK Standard Contractual Clauses to be established under section 5 of Appendix 2 (Data Processing Agreement).

- j) **UK Standard Contractual Clauses** means, as the context requires:
  - (i) the Standard Contractual Clauses (controllers) set out in Decisions 2004/915/EC ("**Controller SCCs**") with option (iii) of section II(h) being selected and the initials of the Data Importer deemed inserted; and/or
  - (ii) the Standard Contractual Clauses (processors) set out in Decision 2010/87/EC ("**Processor SCCs**"),

in each case including their appendices, and as amended or replaced from time to time by a competent authority or in accordance with the UK GDPR, including as contemplated under section 5 of Appendix 2 (Data Processing Agreement).

- (2) EdApp is the controller in respect of personal data, such as account registration details, that we collect directly from users of the Services (End Users) and users of No-Charge Services, and which we use for the purposes of our business.
- (3) You are the controller and we are the processor in respect of any other personal data (including within Your Modifications) that is uploaded by End Users and/or users of No-Charge Services including data, templates, information, content, code, video, images or other material of any type (Materials), or which is provided by your administrators (see section 5 of the General Terms).

- (4) To the extent that the Services comprise the processing of personal data where we are the controller and you are the controller: the provisions of sections 2, 3, 4 and 5 of Appendix 2 (Data Processing Agreement) to this Agreement shall apply (where applicable).
- (5) EdApp will make available our Privacy Policy at our website and where you provide us with personal data in connection with the Agreement where we will act as the controller (for example where you provide contact details for use in administering the Agreement), you agree to ensure that these individuals are provided with a copy of our Privacy Policy. Where we are a processor and not a controller, it is your responsibility to ensure that in accordance with relevant Data Protection Laws:
- There is a lawful basis for the collection and processing of personal data; and
  - You have provided an appropriate privacy policy to the End Users and other data subjects.

## Appendix 2 (Data Processing Agreement)

### General

The provisions of this Appendix form part of this Agreement to the extent that section (11)(d) of the General Terms applies.

### Terms of Data Processing

1. Where EdApp acts as processor of personal data on your behalf, EdApp shall:
  - a) process personal data only on your reasonable documented instructions unless required to do so by law; in such a case, EdApp shall inform you of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest. You acknowledge and agree that your final and completion instructions regarding the processing of Customer Personal Data are set out in this Agreement. Any additional or alternate instructions must be agreed in writing by the parties (and EdApp will be entitled to charge a reasonable fee to cover any costs incurred in complying with them);
  - b) ensure that persons authorised to process the personal data on our behalf have committed themselves to confidentiality obligations or are under an appropriate statutory obligation of confidentiality;
  - c) implement appropriate technical and organisational measures to ensure a level of security for the personal data which is appropriate to the risks to individuals that may result from the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the personal data. The measures that we consider appropriate are more fully described in EdApp's Architecture and Security document (a copy of which is available on request);
  - d) not engage another processor without your prior specific or general written authorisation. You can request a list of sub-processors currently engaged by EdApp and authorised by you by emailing us at [privacy@edapp.com](mailto:privacy@edapp.com). You may notify us in writing of any objections to new sub-processors (provided the objection is based on reasonable grounds relating to data protection). If we receive such an objection, the parties will discuss such objections in good faith and EdApp will use its reasonable commercial endeavours to resolve any such objection. If the parties are not able to resolve the objection, you may terminate the affected Services by providing 30 days written notice to EdApp. We shall impose obligations on any processor that we appoint on your behalf that are equivalent to the terms set out in this Appendix 2. We shall remain liable for the performance of these processors;
  - e) taking into account the nature of the processing, assist the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the EU Data Protection Laws and any assistance provided by us to you in to respond to requests from: (i) data subjects to exercise their rights under Data Protection Laws; or (ii) regulatory authorities, shall be at your cost on a time and materials basis;
  - f) at the choice of the controller, delete or return all the personal data to the controller after the end of the provision of services relating to processing, and delete existing copies save that EdApp shall be entitled to retain Customer Personal Data where required by Data Protection Law or another applicable law, including any Australian state or Commonwealth law to which the processor is subject, or where such data is required for EdApp's internal record keeping or where it is necessary for use in any legal proceedings; You must notify us of Personal Data that you wish to have returned or deleted within 30 days following the effective date of termination; and
  - g) make available to the controller all information reasonably necessary to demonstrate compliance with the obligations laid down in Article 28 of the EU Data Protection Laws and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller (in each case at the controller's cost). Any assistance provided by us to you to demonstrate compliance with Data Protection Laws shall be provided at your cost. The timing, scope and duration of any audit shall be mutually agreed by the parties. You shall not be entitled to carry out audits more than once in any 12 month period, other than where a data security incident has taken place, you shall be entitled to carry out an additional audit within 30 days of EdApp notifying you of such security incident. You shall ensure that any third party auditor appointed by you is (i) not a competitor of EdApp; and (ii) is committed to appropriate confidentiality obligations. You and/or any third-party auditor shall comply with EdApp's standard policies and procedures when accessing EdApp's premises or systems.

### EU International Transfers

2. With respect to any EU International Transfers, EdApp acting on its own behalf and as agent for each EdApp affiliate and you acting on your own behalf and as agent for each of your affiliates, hereby enter into the EU Standard Contractual

Clauses incorporating: (i) the general clauses (*Clauses 1-6*); (ii) Modules One (*Transfer Controller to Controller*), Two (*Transfer Controller to Processor*), and Four (*Transfer Processor to Controller*) as applicable and the relevant options as specified in the table set out in this section 3 of this Appendix 2; and (iii) with the Annexes populated as set out below:

- Annex I of the EU Standard Contractual Clauses shall be pre-populated with the details set out in section 4 of this Appendix 2; and
  - Annex II of the EU Standard Contractual Clauses: EdApp's technical and organisational measures are described in EdApp's Security & Software Architecture document (available upon request).
- a) The EU Standard Contractual Clauses shall come into effect upon commencement of an EU International Transfer.
- b) Prior to the commencement of any EU International Transfer to or from a sub-processor, EdApp will use its reasonable endeavours to enter into the EU Standard Contractual Clauses with such sub-processor, incorporating the general Clauses (*Clauses 1-6*) and Module 3 (*Transfer Processor to Processor*).

#### EU Standard Contractual Clauses: Modules and options

3. For the purposes of section 2 of Appendix, the parties agree that the following Modules and Options of the EU Standard Contractual Clauses shall be deemed to be incorporated:

Clause 7 ( <i>Docking clause</i> )	Clause 7 shall not be incorporated.
Clause 8 ( <i>Data protection safeguards</i> )	Modules One, Two and Four.
Clause 9 ( <i>Use of sub-processors</i> )	Module Two, Option 2, and the specific time period shall be as set out in section 1(d) of this Appendix 2.
Clause 10 ( <i>Data subject rights</i> )	Modules One, Two and Four.
Clause 11 ( <i>Redress</i> )	Module One and Two, and the Option in Clause 11(a) shall not be incorporated.
Clause 12 ( <i>Liability</i> )	Modules One, Two and Four.
Clause 13 ( <i>Supervision</i> )	Module One and Two, incorporating all paragraphs of Clause 13(a) as applicable.
Clause 14 ( <i>Local laws and practices affecting compliance with the Clauses</i> )	Modules One, Two and Four.
Clause 15 ( <i>Obligations of the data importer in case of access by public authorities</i> )	Modules One, Two and Four.
Clause 16 ( <i>Non-compliance with the Clauses and termination</i> )	For Clause 16(d) the relevant parts for Modules One, Two and Four.
Clause 17 ( <i>Governing law</i> )	<p>Modules One and Two, Options 1 and 2 as applicable and the law inserted shall be the laws of the EU Member State in which the data exporter is established, save that: (i) where such laws do not allow for third-party beneficiary rights; or (ii) the data exporter is not established in an EU Member State, the law inserted shall be the laws of Ireland.</p> <p>Module Four and the law inserted shall be the laws of the country stated in the governing law clause of the Agreement, save that where such law does not allow for third-party beneficiary rights, the law inserted shall be the laws of Ireland.</p>
Clause 18 ( <i>Choice of forum and jurisdiction</i> )	Modules One and Two and the courts inserted shall be the courts in the Member State referred to in Clause 17 ( <i>Governing law</i> ); and

	Module Four and the country inserted shall be the country stated to have jurisdiction in the Agreement, save that where the laws of that country do not allow for third-party beneficiary rights, the country inserted shall be the law of Ireland.
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Details of data processing

4. For the purposes of section 2 of this Appendix 2, the parties agree that Annex I of the EU Standard Contractual Clauses shall be pre-populated with the following details:

List of parties	<p>Data Exporter:</p> <p>Name: the person or entity agreeing to these terms.</p> <p>Address: as set out in your Order Form/s.</p> <p>Contact person's name, position and contact details: as set out in your Order Form/s.</p> <p>Activities relevant to the data transferred under these Clauses: as set out in the Agreement.</p> <p>Role (controller/processor): controller.</p> <p>Data importer(s):</p> <p>Name: EdApp.</p> <p>Address: as set out in your Order Form/s.</p> <p>Contact person's name, position and contact details: <a href="mailto:privacy@edapp.com">privacy@edapp.com</a>.</p> <p>Activities relevant to the data transferred under these Clauses: as set out in the Agreement.</p> <p>Role (controller/processor): controller and/or processor, as applicable.</p>
Description of transfer	<p><b>Categories of data subjects whose personal data is transferred:</b> the data subjects may include your customers, employees, suppliers and end-users as further set out in EdApp's Privacy Policy, available here: <a href="https://www.edapp.com/privacy-policy">https://www.edapp.com/privacy-policy</a>.</p> <p><b>Categories of personal data transferred:</b> Customer Personal Data as further set out in EdApp's Privacy Policy, available here: <a href="https://www.edapp.com/privacy-policy">https://www.edapp.com/privacy-policy</a>.</p> <p><b>Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures:</b> no sensitive data shall be transferred by the data exporter to the data importer, and as per the Agreement including without limitation and where relevant EdApp's technical and organisational measures are described in EdApp's Security &amp; Software Architecture document (available upon request).</p> <p><b>The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis):</b> continuous unless otherwise specified in the Agreement.</p> <p><b>Nature of the processing:</b> data hosting, storage and such other services as are described in the Agreement.</p> <p><b>Purpose(s) of the data transfer and further processing:</b> the purpose of the data processing is the provision of the Services under the Agreement.</p> <p><b>The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period:</b> personal data will be retained until such time as you</p>

	<p>notify EdApp that you would like the personal data returned to you or deleted in accordance with the Agreement.</p> <p><b>For transfers to (sub-) processors, also specify the subject matter, nature and duration of the processing:</b></p> <ul style="list-style-type: none"> <li>• subject matter of the processing is the processing of Customer Personal Data in connection with the performance of the Agreement;</li> <li>• nature of processing is as described in the Agreement; and</li> <li>• the duration of the processing is determined by you, subject to the other provisions of the Agreement.</li> </ul>
Competent supervisory authority	The competent supervisory authority in the EU Member State in which the data exporter is established and, in the event that the data exporter is not established in an EU Member State, the data protection authority of Ireland.



## UK International Transfers

5. With respect to any UK International Transfers, you acting on your own behalf and as agent for each of your affiliates (each as "data exporter") and EdApp acting on its own behalf and as agent for each EdApp affiliate (each as "data importer") hereby enter into the relevant UK Standard Contractual Clauses in respect of any UK International Transfer from the you or your affiliate to EdApp or a EdApp affiliate and the Appendices to the UK Standard Contractual Clauses shall be completed as follows:
- a) in respect of the Processor SCCs:
- Appendix 1 shall be pre-populated with the details set out in section 4 of this Appendix 2 in respect of 'data exporter', 'data importer', 'data subjects', 'categories of data', 'special categories of data (if appropriate)' and 'processing operations'; and
  - Appendix 2: the technical and organisational security measures implemented by the data importer are described EdApp's Security & Software Architecture document (available upon request).
- b) in respect of the Controller SCCs, Annex B shall be pre-populated with the details set out in section 4 of this Appendix 2 in respect of 'data subjects', 'purpose', 'categories of data', and 'special categories of data (if applicable)' and as follows:
- Recipients: the personal data transferred may be disclosed only to the following recipients or categories of recipients: data importer and employees, contractors, staff, and personnel of the data importer.
  - Data protection registration information of data exporter (where applicable): as available on the Supervisory Authority of Ireland's website.
  - Additional useful information (storage limits and other relevant information): as set out in the Agreement.
- c) The UK Standard Contractual Clauses shall come into effect upon commencement of a UK International Transfer (the "**UK Standard Contractual Clause Effective Date**"), provided that such UK Standard Contractual Clause Effective Date is prior to the UK Addendum Date (as defined below).
- d) In the event that the UK Information Commissioner, in accordance with S119A Data Protection Act 2018, issues an Addendum to the EU Standard Contractual Clauses (the "**UK Addendum**"), EdApp (acting on its own behalf and as agent for each EdApp affiliate) and you (acting on your own behalf and as agent for each of your affiliates) agree that:
- from its date of issuance (the "**UK Addendum Date**"), such UK Addendum shall be deemed incorporated into the EU Standard Contractual Clauses entered into in accordance with section 3 of this Appendix 2;
  - they shall be bound by the UK Addendum as incorporated into the EU Standard Contractual Clauses;
  - such UK Addendum and the EU Standard Contractual Clauses into which it is incorporated shall come into effect upon commencement of any UK International Transfer on or after the UK Addendum Date and for all UK International Transfers taking place on or after such UK Addendum Date; and
  - prior to the commencement of any UK International Transfer to or from a sub-processor, EdApp will use its reasonable endeavours to enter into the EU Standard Contractual Clauses with such sub-processor, incorporating the general Clauses (Clauses 1-6), Module 3 (Transfer Processor to Processor) and the UK Addendum.

## Appendix 3 (Australian legal compliance)

### 1. Privacy

- a) The provisions of this Appendix 3 apply to the extent that section (11)(e) of the General Terms applies.
- b) You are responsible for compliance with the Privacy Act 1988 (Cth) (Privacy Act) with respect to any Personal Information contained within Your Data that you use in connection with the Services. You must ensure that you obtain all necessary consents from relevant individuals for the use of the Personal Information contained within Your Data with the Services, including its transfer outside of Australia to the extent required in order for EdApp to provide the Services to you.
- c) Other than where arising from a EdApp breach of this Agreement, you must indemnify, defend and hold EdApp and its affiliates, service providers, officers, employees, contractors and customers (those indemnified) harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including legal fees) arising as a result of any breach of the Privacy Act relating to your collection, use, storage, processing or disclosure of any Personal Information contained within Your Data in connection with the Services.
- d) EdApp agrees to only use Personal Information contained within Your Data in order to exercise its rights and perform its obligations under this Agreement.
- e) EdApp must comply with the Privacy Act to the extent it is applicable to the processing of Personal Information in Your Data, including by:
  - i. taking reasonable steps to protect Personal Information contained in Your Data that is held by EdApp from misuse, interference and loss, and from unauthorised access, modification or disclosure;
  - ii. promptly notifying you in writing of:
    1. any complaint about the privacy of Personal Information contained within Your Data received by EdApp;
    2. any request for access to Personal Information contained within Your Data received by EdApp; and
    3. any unauthorised access or disclosure of Personal Information contained within Your Data, or other breach, or suspected breach, of the Privacy Act;
  - iii. co-operate and provide reasonable assistance to you in connection with any complaint, request or breach referred to in section (1)(e)(ii) of this Appendix 3; and
  - iv. promptly take any commercially reasonable steps required to contain and rectify any of the matters referred to in section (1)(e) of this Appendix 3.

### 2. Australian Consumer Law

- a) The provisions of this section (2) of this Appendix 3 apply to the extent that you are a Consumer for the purpose of the Australian Consumer Law.
- b) In this section (2) of Appendix 3:
  - i. **Australian Consumer Law** means the law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth);
  - ii. **Consumer** has the same meaning given to it by section 3 of the Australian Consumer Law; and
  - iii. **Consumer Guarantee** means a consumer guarantee under the Australian Consumer Law.
- c) Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
  - i. to cancel your service contract with us; and
  - ii. to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

- d) If the Services fail to meet any Consumer Guarantee, and the total amount paid by you for the Services under this Agreement is less than the statutory minimum (which as at the date of this Agreement is AUD\$100,000), EdApp's liability to you for failure to meet such Consumer Guarantee is limited, to the extent permitted by law, to (at EdApp's election) supplying the Services again or paying for the cost of having the Services supplied again.

## Part B: Product Modules

### 1. Program Management Services and Content Support Services

**Program Management Services** means any training, enablement or other technical services provided by us related to the Subscription Service, as identified in your Order(s).

**Content Support Services** means any content produced by us for you, including designs, illustrations, audio, fonts, templates and training courses, and associated support services, as identified in your Order(s).

- a) You agree that, unless we provide you with Program Management Services, our responsibilities do not extend to the internal management or administration of the Subscription Services for you and that we are merely a software provider.
- b) You will give us timely access to Your Data reasonably needed for us to provide Program Management Services and/or Content Support Services to you, and if you fail to do so, our obligation to provide the Program Management Services and/or Content Support Services will be excused until access is provided.

### 2. EducateAll

The content library for Educate All contains sponsored content provided to EdApp by industry leaders (**Sponsored Content**). Sponsored Content contains copyrighted material, trademarks and other proprietary information including, but not limited to, text and graphics. You may use such Sponsored Content on EdApp in the form it is downloaded into your EdApp account and, except as otherwise expressly permitted under copyright law, no copying, redistribution, publication or commercial exploitation of downloaded Sponsored Content will be permitted without the express written permission of us and/or the sponsor/copyright owner. No changes in, or deletion of, author attribution, trademark or copyright notice shall be made.

### 3. EdApp Subscription Services

- a) The terms of this section (3) of Part B apply to EdApp Subscription Services.
- b) **EdApp Subscription Services** means the provision of the online Subscription Service known as EdApp available through the EdApp Platform, as further described in the Service Description at <https://www.edapp.com/lms-features/>.
- c) EdApp will make EdApp Subscription Services available to you on Devices owned or controlled by you or your End Users during the Subscription Term.
- d) Other than in respect of No-Charge Services, EdApp will use commercially reasonable efforts to ensure that the EdApp Subscription Services will have 99.9% availability in any calendar month.
- e) Subject to your compliance with this section (3), you may be entitled to the following remedies if the EdApp Subscription Services (other than the No-Charge Services) do not have availability of 99% in any calendar month (**EdApp SLA**):
  - i. an extension to your Subscription Term applicable to the EdApp Subscription Service; or
  - ii. service credits of an equivalent pro-rated value to the extension of the Subscription Term in the form of a monetary credit to a monthly-billing account,

as described in the table below (**Service Credits**). Service Credits may not be exchanged for, or converted to, monetary amounts, and are capped at fifteen days of EdApp Subscription Services in any calendar month.

<b>Monthly Uptime Percentage</b>	<b>Service Credits</b> <i>(Days of extension to the Subscription Term / pro-rated credit equivalent)</i>
< 99.0% - >= 95.0%	7
< 95.0%	15

- f) To claim Service Credits, you must notify EdApp within thirty (30) days from the end of the calendar month to which the Service Credits relate. Failure to comply with this requirement will forfeit your right to receive the Service Credits.
- g) The relevant Service Description may disapply the EdApp SLA to specific parts of the EdApp Subscription Service.
- h) EdApp will not be liable under this EdApp SLA for any unavailability of the EdApp Subscription Service caused by Force Majeure Events or any equipment (including your Devices) or network connections outside of EdApp's control.
- i) THIS EDAPP SLA STATES YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE BY EDAPP TO MEET THE EDAPP SLA.