

# Terms and Conditions: Performance Examiner

## 1. Definitions and interpretations

These terms and conditions are agreed upon by the service provider and the University of Malta for the provision of services by the service provider to MATSEC as part of the University of Malta.

1.01. The **service provider** means the individual who is engaged for the provision of services to MATSEC as stated in these terms and conditions.

1.02. **MATSEC** refers to the Matriculation and Secondary Education Certificate Examinations Board within the University of Malta of Msida MSD 2080 duly represented by the Rector, Prof Alfred J Vella.

1.03. **Services** means the tasks, duties and deliverables set out in this document.

1.04. In the acceptance of these **terms and conditions**, the service provider is entering into this **agreement** as a self-employed independent service provider and shall not be entitled to any benefits offered to employees of the University of Malta. The service provider is not an employee, agent, officer, or director of MATSEC or the University of Malta. Nothing in this agreement creates any such relationship. The service provider has no authority to represent MATSEC or the University of Malta and must not claim to represent MATSEC or the University of Malta or enter into any commitments on behalf of MATSEC or the University of Malta. MATSEC is not the employer of the service provider and nothing in this document aims to create such a relationship.

1.05. A **third party** is an individual who is not part of these terms and conditions.

1.06. For the avoidance of doubt, all information disclosed between MATSEC and the service provider for the services shall be deemed to be confidential information whether MATSEC has marked the information as confidential or not. Confidential information includes, but is not limited to, the following:

- i) Examination paper and marking scheme;
- ii) Information distributed among examiners through meetings and/or seminars in relation to the services;
- iii) Knowledge and information related to the business and affairs of MATSEC;
- iv) Composition of examination panels and/or identity of service providers offering their services to MATSEC;

## 2. Obligations of the Service Provider

2.01. The service provider agrees to make themselves available to carry out the services at the required period and by the stated deadlines.

2.02. The service provider agrees that, for the duration of the services, they shall be residing in Malta and able to undertake the services from a location in the Maltese Islands.

2.03. The service provider may not engage a third party to fulfil the services.

2.04. The service provider may provide their services to third parties during the currency of these terms and conditions as long as these do not lead to any conflict of interest with MATSEC's business or any of the obligations stated in these terms and conditions. The service provider is to inform MATSEC of their current or planned commercial or non-commercial activity and/or other interests which may be of relevance to, or bear upon the, work, operations, reputation and business of MATSEC. MATSEC will reply in writing whether the indicated activity or interests constitute a conflict of interest. This determination shall be final and binding to both parties.

2.05. The service provider acknowledges the importance of completing the services to quality standards as set by MATSEC through this document, official documentation, and key meetings. MATSEC official documentation includes the guidebooks made available in the Examiners section of the MATSEC website, namely:

- i) Syllabus Panel: Guidelines
- ii) Marking: Issues and Procedures
- iii) Paper Setting: Procedures and Good Practices
- iv) Glossary of Terms

2.06. The service provider confirms that they will keep to the timeframe allocated for the duration of the examination.

2.07. The service provider warrants that they have the necessary subject expertise and knowledge necessary to fulfil the services.

2.08. The service provider warrants that the examination papers used during the session are property of MATSEC and should not leave the examination venues at all times, including at the end of the exam, but should be returned to the Head of Centre in charge.

2.09. The service provider agrees that the use of mobile phones and/or any photographic devices during the exam is strictly prohibited.

2.10. The service provider warrants that they will make themselves available for the agreed dates pertaining to the subject. If the service provider knows beforehand that they will not be available for certain dates listed on the timetable they are to inform MATSEC at their earliest convenience via e-mail.

2.11. The service provider agrees that in the case of ill-health they are to advise MATSEC at their earliest.

2.12. The service provider agrees to contact MATSEC at their earliest in the occurrence of any event which might have a negative effect on MATSEC and/or the trustworthiness of the examination process. In such circumstances, the service provider agrees to comply with MATSEC's instructions to mitigate these effects.

2.13. The service provider warrants that they have disclosed to MATSEC any information which potentially constitutes a breach of any of the stated terms and conditions prior to commencing the delivery of services and that they shall notify MATSEC immediately of any potential breach of any of the terms and conditions which regards them directly or indirectly.

2.14. This agreement shall be governed by the laws of Malta. In the event of any dispute between the Parties, the Parties agree to attempt to reach an amicable settlement in good faith within three weeks when a dispute has been lodged by any of the parties. Should an attempt to reach an amicable settlement be unsuccessful within this timeframe, the Parties agree to resort to arbitration in terms of Chapter 387 of the Laws of Malta.

### **3. Payment and Fees**

3.01. The Performance Examiner is to be paid according to the established rates.

3.02. The stated payment shall be payable to the service provider once all services have been provided to a satisfactory standard.

3.03. A remittance slip will be issued with each payment for the services offered in each examination session, setting out the gross fee.

3.04. Income tax and NI contributions are the responsibility of the service provider.

3.05. Travel expenses can be claimed only by service providers travelling between Malta and Gozo when applicable. Reimbursement, where authorised by MATSEC, will be made at current MATSEC rates in accordance to current MATSEC practice. For this purpose, the ferry ticket (for one foot passenger or one vehicle with driver) has to be presented at MATSEC by no more than 30 days after the service.

3.06. Service providers travelling by car for their services to MATSEC do so entirely at their own risk. They may check that their own car insurance covers such travels. MATSEC shall not accept claims in respect of any liability arising directly or indirectly from such use.

### **4. Confidential Information**

4.01. The service provider undertakes not to use the Confidential Information for any purpose except the services, without first obtaining the written agreement of MATSEC.

4.02. The service provider shall not use the Confidential Information or information derived from it to undermine MATSEC's business or otherwise harm its reputation.

4.03. The service provider undertakes not to publicise or make any public announcement or other statement in respect to their services or MATSEC business. The service provider must not discuss the services with third parties, online, or on social media and networking sites.

4.04. These terms and conditions apply to all of the information disclosed by MATSEC to the service provider, regardless of the way or form in which it is disclosed or recorded but they do not apply to:

- i) any information which is or in future comes into the public domain (unless as a result of the breach of these terms and conditions); or
- ii) any information which is already known to the service provider and which was not subject to any obligation of confidence before it was disclosed to the service provider by MATSEC; or
- iii) any information obtained by the service provider from a third party with a valid right to disclose such information, provided that said third party is not under a confidentiality obligation to MATSEC; or
- iv) any information which was independently developed by the service provider without reference to the Confidential Information as shown by service provider's written records.

4.05. MATSEC undertakes several safeguards to ensure the anonymity of Confidential Information which regards third parties. The service provider shall not override or seek means to override these safeguards. The service provider undertakes to report any candidates suspected of seeking means to override these safeguards and reveal their identity. The service provider agrees to adhere to and respect the parameters of strict confidentiality for the services.

4.06. The service provider must not communicate matters related to the service or confidential information directly with any centre, school, teacher, candidate, or other stakeholder besides MATSEC. Any communication received from any stakeholder relating to the service provider's service or the confidential information must be forwarded to MATSEC.

4.07. All personal details of the service provider besides name, surname, qualifications and contact information shall be deleted following the delivery of the services. These other details shall be kept by MATSEC for the sole purpose of contacting the service provider for the provision of other services in the future. These details will be deleted as well should the service provider request their deletion.

## 5. Intellectual Property Rights

5.01. Neither these terms and conditions nor the supply of any information grants the service provider any license, interest or right in respect of any intellectual property rights of MATSEC.

5.02. All intellectual property rights in all material developed by the service provider in relation to the service shall be property of MATSEC.

5.03. The service provider guarantees that the services provided are exclusively those of MATSEC.

## 6. Eligibility and conflict of interest

6.01. The service provider verifies that they have not given, accepted, offered, or agreed to give, accept or offer any form of inducement for doing or refraining from doing any act in relation to the completion of the services. The service provider should not do anything which might give the impression that they have done any of the above.

6.02. The service provider is to notify MATSEC immediately in writing of any actual or potential conflict of interest.

6.03. MATSEC retains the right to determine whether a conflict of interest exists or not and to take action accordingly.

6.04. The service provider is to notify MATSEC immediately if there are any family members up to the first degree who will be sitting for the examination.

## 7. Effect

7.01. The failure of either party to exercise or enforce any right or remedy available to that party shall not be construed as a waiver of that party's right or remedy under this agreement.

7.02. If any provision in terms and conditions proves to be invalid or unenforceable, the remainder of the provision in question and other provisions of the terms and conditions shall remain in full force and effect.

7.03. All notices required to be served pursuant to the terms and conditions shall be made in writing to the addresses at the head of this document. This agreement may not be modified.