

## University of Cambridge International Examinations

### Standard Terms for Engaging Consultants

#### 1 Background

- 1.1 These terms ("**Terms**") lay out the basis on which University of Cambridge International Examinations ("**CIE**") of 1 Hills Road, Cambridge, a division of the University of Cambridge Local Examinations Syndicate ("**UCLES**") acting for and on behalf of The Chancellor, Masters and Scholars of the University of Cambridge shall engage a Consultant ("**Consultant**") to carry out Consultancy Services.
- 1.2 No binding agreement will be formed or based on these Terms until CIE has sent the Consultant and the Consultant has accepted a particular Invitation Letter either in writing or by electronic means.
- 1.3 A particular Invitation Letter will define the Consultancy Services required for that piece of work.
- 1.4 A Consultant may carry out more than one role under these Terms.
- 1.5 These Terms and any Agreement using them shall be interpreted in accordance with Clause 11.

#### 2 Provision of Consultancy Services

- 2.1 The Consultant will personally carry out the Consultancy Services:
  - 2.1.1 in accordance with the Invitation Letter and any further Invitation Letter which may be agreed upon and added to the Agreement at any time throughout the Agreement's duration;
  - 2.1.2 using reasonable skill and care commensurate with the responsibility of the role and acting in a professional manner and in the best interests of CIE at all times throughout the Agreement;
  - 2.1.3 as detailed in any and all relevant instructions from CIE, including but not limited to the advice and guidance for Consultants in relation to child protection; and,
  - 2.1.4 as detailed in any relevant codes of practice.
- 2.2 The Consultant will be solely responsible at their own expense for the provision of any equipment necessary to carry out the Consultancy Services including, but not limited to, computer hardware and software including virus protection and printer, together with any upgrades to computer hardware or software which may be necessary in order for the Consultant to perform the Consultancy Services.
- 2.3 The Consultant shall attend and participate in such training activities as required by CIE.

#### 3 Duration

- 3.1 Subject to Clause 4 below, the Agreement is for the provision of Consultancy Services as a Consultant for the period set out in the Invitation Letter and the

Agreement will automatically terminate on the expiry of that period.

- 3.2 For the avoidance of doubt CIE is under no obligation to offer a new agreement on expiry of the Agreement and the Consultant is under no obligation to offer professional services for any further period.

#### 4 Termination

- 4.1 The Agreement will terminate automatically and without notice when the Consultant has completed the Consultancy Services.
- 4.2 The Agreement may be terminated at any time by either party giving not less than 1 month's written notice to the other.
- 4.3 The Consultant may terminate the Agreement, with less than a month's notice provided they give as much notice as is reasonably possible in the following circumstances:
- 4.3.1 for reasons of ill health, subject to the Consultant providing a doctor's certificate along with the termination notice; or,
  - 4.3.2 if a close family member is seriously ill or has died.
- 4.4 The Agreement may be terminated without notice by CIE and in the sole opinion of CIE if:
- 4.4.1 the Consultant is in breach of Clause 5, below;
  - 4.4.2 the Consultant's conduct, standard of Consultancy Services or administrative duties or any other aspect of the Consultant's performance under this Agreement or any other agreement with CIE is not in CIE's reasonable opinion satisfactory or professional;
  - 4.4.3 the Consultant has failed or refused to comply with the requirements of the current, relevant codes of practice;
  - 4.4.4 the Consultant has failed or refused to comply with the requirements of CIE's current Consultant instructions and procedures or any other instructions from CIE;
  - 4.4.5 the Consultant has failed or refused to carry out the Consultancy Services as reasonably required of the Consultant;
  - 4.4.6 there is insufficient volume of work and the Consultancy Services are no longer needed;
  - 4.4.7 the Consultant's conduct or actions are likely to impact upon the reputation of the University of Cambridge, UCLES or CIE;
  - 4.4.8 the Consultant is deemed inappropriate;
  - 4.4.9 the Consultant is in custody or is under investigation by the police or by any other agency;
  - 4.4.10 the Consultant is unable to carry out the Consultant's obligations under this agreement due to mental or physical incapacity; or,

4.4.11 the Consultant in any way brings into disrepute the name, reputation and interests of CIE, its employees, directors, officers, other people associated with CIE, or its products or services.

## 5 Confidentiality and Disclosure

- 5.1 The Consultant's work is strictly confidential and the restrictions contained in this Clause 5 will apply during the Agreement and at any time after the termination of the Agreement howsoever the termination comes about unless the Consultant is specifically released from one or more of the restrictions by the written permission of the Chief Executive, CIE.
- 5.2 The Consultant will not, either during this Agreement or following its termination, divulge or communicate or permit to be disclosed or communicated to any unauthorised person, company, business entity, the media or other organisation, any Confidential Information connected with or acquired in the course of the Agreement.
- 5.3 To divulge, disclose, or communicate or permit to be disclosed or communicated any Confidential Information will be treated as a very serious matter and could result in the immediate termination of the Agreement or further litigation as appropriate. This restriction shall cease to apply when the information has been properly made available to the public by CIE and is in the public domain.
- 5.4 The Consultant shall not, without the prior written permission of CIE use the Consultant's name in association with that of CIE whilst carrying out the Consultancy Services. The Consultant will not use the CIE name for the Consultant's own commercial or non commercial purposes or whilst carrying out services under any other agreement with CIE, or allow it to be so used, whether expressly or by implication.
- 5.5 To ensure the integrity of CIE examinations the Consultant is required to make written declarations if they have any interest in or with any person taking or involved in any way with a CIE examination at any time during the period of this Agreement and for 12 months following expiry of this Agreement to the Director of Operations, CIE. The Consultant has an interest in a person if that person is a close relative, or is a person where his or her interest (whether professional or not) could compromise the integrity of CIE's examinations, or the Consultant's integrity, if the relationship were not disclosed.
- 5.6 The Consultant is also required to notify CIE at the commencement of the Agreement and at any time during the Agreement any potential conflicts of interest or any previous or existing relationship with CIE centres in which the Consultant as an individual has been required to provide services in any capacity.
- 5.7 CIE retains the right to determine whether a conflict of interest exists and any such judgement shall be final.
- 5.8 The Consultant must ensure the security of any and all CIE materials both electronic and paper in the Consultant's possession and is responsible for that security.
- 5.9 The Consultant will only carry out the Consultancy Services in accordance with CIE instructions.
- 5.10 The Consultant shall return to CIE or destroy any documents or other articles containing Confidential Information when requested to do so by CIE and on the

termination of this Agreement for whatever reason.

- 5.11 The Consultant will ensure that any computer or other electronic equipment used to carry out the Consultancy Services will at all times be kept in a safe and secure environment.
- 5.12 The name, address and other contact details of the Consultant will be held by CIE for legitimate business purposes and will be circulated to CIE staff and other relevant Consultants as appropriate.
- 5.13 Personal details of the Consultant may be used to undertake any checks necessary to ensure the Consultant's suitability to assess vulnerable groups.
- 5.14 By entering into the Agreement, the Consultant agrees that personal data may be used by CIE as set out in these Terms.

## 6 Intellectual Property Rights

- 6.1 The Consultant acknowledges that CIE is beneficially entitled to all inventions, designs, information, modifications and improvements of any kind, know-how, copyright work, rights in databases, domain name, trade marks including but not limited to all records, reports, documents, papers, examination materials and any and all other intellectual property rights in all works in each case made, developed or created by the Consultant in connection with the Consultancy Services whether alone or with any other person.
- 6.2 The Consultant hereby irrevocably and unconditionally waives all rights under Chapter IV of the Copyright, Designs and Patents Act 1988 in connection with the Consultant's authorship of any such existing or future copyright work referred to in Clause 6.1 in whatever part of the world that such rights may be enforceable.
- 6.3 The Consultant will, at CIE's request, sign such documents and do all such acts as CIE may require to fully and effectively vest in CIE, free from encumbrances, all rights, titles and interest in the matters referred to in Clause 6.1 above so that CIE may obtain patents, registered designs or other protection in its own name in the United Kingdom or any other countries required by CIE.
- 6.4 The Consultant's Intellectual Property that was created before the Consultancy Services ("**Background Intellectual Property**") used in connection with the Consultancy Services shall remain the property of the Party introducing the same and the Consultant grants CIE from the Effective Date an irrevocable non-exclusive, transferable, royalty-free licence to use the Consultant's Background Intellectual Property necessary for CIE to use any of its own Intellectual Property, whether created by the Consultant or otherwise.
- 6.5 Where any of the rights in the Materials are owned by third parties ("**Third Party Materials**"), the Consultant shall promptly provide details of the relevant third party and the extent of their ownership to CIE, and the Consultant hereby grants CIE a perpetual non-exclusive licence to use the Third Party Materials and indemnifies CIE against infringement of these rights.

## 7 Travel Arrangements

- 7.1 The Consultant may need to travel either nationally or internationally in order to provide the Consultancy Services and by accepting the work described in an

Invitation Letter agrees to the Travel Arrangements described in the Invitation Letter.

- 7.2 The Consultant shall comply with any Travel Arrangements that are made by CIE in accordance with the Invitation Letter and shall use their best endeavours to provide CIE with as much notice as they can should there be any reason the Travel Arrangements need to be varied.
- 7.3 Where the Consultant is required to arrange their own travel itinerary, CIE shall reimburse the reasonable travel expenses properly incurred in the carrying out of the Consultancy Services.
- 7.4 Where the Travel Arrangements require the Consultant to travel outside the Consultant's country of residence:
- 7.4.1 CIE shall provide travel insurance directly to the Consultant if resident in the UK as part of the Travel Arrangements; or,
- 7.4.2 CIE shall reimburse the cost of any travel insurance for the Consultant if resident outside of the UK and the Consultant is providing Consultancy Services outside of their country of residence as CIE is unable to arrange such cover directly for the Consultant.
- 7.5 The cost of the travel insurance referred to in Clause 7.4.2 shall be reimbursed by CIE on the production of receipts by the Consultant; if the Consultant believes that an annual policy would be preferable to insurance cover for separate trips then the Consultant should contact CIE Compliance and Inspection Officer.
- 7.6 The parties agree that where the Consultant is working in the country of residence CIE will not provide insurance cover and so the Consultant may choose to make any personal insurance arrangements they wish, at their discretion and cost.
- 7.7 The Consultant's personal car insurance should be extended to include business use where a vehicle is used to provide Consultancy Services at the Consultant's expense.

## **8 Fees and Expenses**

- 8.1 The Fees will be stated gross of any tax, including VAT if payable.
- 8.2 CIE reserves the right to reduce or not to pay the Fees if the Consultant's work is below the standard expected in terms of quality, quantity or timing of delivery or the work is outside the remit of the Consultancy Services set out in the Invitation Letter.
- 8.3 If the Consultant is an Invoicing Consultant, Fees will be paid on receipt of an invoicing detailing the work properly carried out under a particular Invitation Letter.
- 8.4 Expenses will be paid on receipt of an expenses claim form together with original accompanying receipts where required provided the expenses are expenses properly incurred in the carrying out of the Consultancy Services and are in line with the Expenses Guidelines.
- 8.5 Fees and expenses will only be paid by direct transfer to one personal bank account solely or jointly held by the Consultant.
- 8.6 If the Consultant is travelling away from the UK, CIE may pay the Consultant a

Subsistence Advance in order to cover any expenses properly incurred by the Consultant outside the UK whilst on CIE business, provided the expenses are payable in accordance with the Expenses Guidelines;

- 8.7 The Subsistence Advance is not to be used for expenses incurred in the UK and may not be reimbursed if it is used in this way.
- 8.8 The Consultant must provide justification and receipts for all costs paid out of the Subsistence Advance in the same manner as expenses and in accordance with the Expenses Guidelines.
- 8.9 On termination of this Agreement for whatever reason the Consultant must repay CIE the balance of the subsistence advance and CIE shall deduct from the Consultant's Fee any money the Consultant has not accounted for.

## **9 Tax Liabilities**

- 9.1 Subject to Clause 9.2, the Consultant shall be responsible for all income tax and any National Insurance, penalties and interest or similar contributions in respect of Fees paid.
- 9.2 CIE shall on the Consultant's behalf, and pursuant to Inland Revenue policy, make such deduction of basic rate income tax from the Fees as is appropriate and account to the Inland Revenue accordingly except where:
  - 9.2.1 the Consultant is an Invoicing Consultant; or,
  - 9.2.2 where CIE has received declarations from the Consultant on a form P524 that he/she will be exempt from the deduction of income tax for all income tax years to which the terms of this Agreement apply; a P524 can only be completed if an Consultant earns less than the lower personal allowance.
- 9.3 The Consultant is responsible for all income tax and any National Insurance, penalties and interest or other contributions or liabilities in respect of Fees paid.
- 9.4 The Consultant shall be responsible for obtaining advice about their own individual tax situation and further clarification on the above can be obtained from their local tax office.
- 9.5 The Consultant shall be responsible for any higher rate income tax.
- 9.6 The Consultant hereby agrees to indemnify CIE in respect of any claims that may be made by the relevant authorities against CIE in respect of income tax and any National Insurance or any other taxes, levies or payments or liabilities relating to this Agreement.

## **10 Assignment**

- 10.1 The Consultant shall not assign, transfer, sub-contract or in any other manner make over to any third party the benefit or burden of this Agreement without the prior written consent of CIE.

## **11 General Clauses**

- 11.1 These Terms together with the Invitation Letter contains the entire Agreement

between the parties relating to the Consultancy Services provided by the Consultant and supersedes all previous agreements and understandings between the parties with respect thereto, and may not be modified except by an instrument in writing signed by the Consultant and a duly authorised representative of CIE.

- 11.2 Both the Consultant and CIE acknowledge that in entering into this Agreement, they do not do so on the basis of, and does not rely on, any representation of warranty or other provision except as expressly provided herein; however, nothing in the Agreement purports to exclude liability for any fraudulent statement or act.
- 11.3 No person who is not a party to the Agreement shall have any right under the Agreements (Rights of Third Parties) Act 1999 to enforce any Terms of this Agreement.
- 11.4 The parties shall comply with the Data Protection Act 1998 in their processing of personal data insofar as such processing is necessary pursuant to this Agreement.
- 11.5 The name, address and other contact details of the Consultant will be held by CIE for legitimate business purposes in accordance with the Data Protection Act and will be circulated within Cambridge Assessment and to other relevant Consultants as appropriate.
- 11.6 Any notice required to be given under the Agreement by either party to the other shall be in writing and shall be served by sending the same to the last known address of the other party.
- 11.7 Nothing in this Agreement renders the Consultant an employee, director or officer of CIE and the Consultant will not hold themselves out as such. The Consultant will not, by virtue of this Agreement or otherwise, on behalf of CIE commit the funds of CIE, or sign any document or enter into any agreement, or make any promise, except with the prior written consent of CIE.
- 11.8 The invalidity, illegality or unenforceability of any of the provisions of this Agreement shall not affect the validity, legality and enforceability of the remaining provisions of the Agreement.
- 11.9 The Agreement shall be governed by English Law, and all disputes shall be subject to the exclusive jurisdiction of the English courts.
- 11.10 In these Terms (except where context otherwise requires):
- 11.10.1 any reference to a recital, clause, appendix or schedule is to the relevant recital, clause, appendix or schedule of or to this Agreement and any reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the clause, appendix or schedule in which it appears;
- 11.10.2 the clause headings are included for convenience only and shall not affect the interpretation of the Agreement;
- 11.10.3 use of the singular includes the plural and vice versa;
- 11.10.4 use of any gender includes the other genders; and,
- 11.10.5 any reference to a statute, statutory provision or subordinate legislation ("**Legislation**") shall (except where the context otherwise requires) be

construed as referring to such Legislation as amended and in force from time to time and to any Legislation which re-enacts or consolidates (with or without modification) any such Legislation and also refers to Legislation applicable to England, unless stated otherwise.

- 11.11 In the event of any conflict between the provisions of these Terms and the provisions of the Invitation Letter, the provisions of the Terms shall prevail.
- 11.12 In these Terms and any agreement based on them the following words and phrases shall have the meanings given to them below:

**Agreement** means the complete legal agreement between CIE and the Consultant which shall include the Standard Terms for Consultancy Services and the Invitation Letter and any attachments or enclosures with that letter;

**Cambridge Assessment** means that organisation known as Cambridge Assessment which consists of UCLES and OCR;

**Chief Executive, CIE** means the person carrying out that role at CIE from time to time;

**Confidential Information** includes, but is not limited to:

- (a) the nature or any aspect of the Consultancy Services undertaken by the Consultant;
- (b) the nature or any aspect of the work undertaken by CIE;
- (c) any other of CIE's affairs, whether financial or otherwise;
- (d) the content of any work undertaken or created by the Consultant or created or produced by CIE; and,
- (e) usernames or passwords issued by CIE or its agents or sub-contractors;

**Consultancy Services** means the services described in the Invitation Letter;

**Consultant** means the person engaged to carry out the Consultancy Services;

**Expenses Guidelines** means those guidelines produced by CIE;

**Fees** mean the fees detailed in the Invitation Letter;

**Invoicing Consultant** means a consultant that is:

- (a) not carrying out the duties of an examiner, a marker, invigilator or question setter, or for any related duties in any way connected with examinations conducted by CIE; or,
- (b) not resident in the United Kingdom for tax purposes;

**Invitation Letter** means the particular letter which describes the Consultancy Services required to be carried out by the Consultant;

**Subsistence Advance** means an amount of money advanced by CIE to the Consultant as described in the Invitation Letter; and,

**Travel Arrangements** means arrangements for the Consultant to travel in order to carry out the Consultancy Services that are contained in the Invitation Letter.