



Home Office

AUTHORITY: The Secretary of State for the Home Department

## **Schedule 9.2 – Personnel and Key Representatives**

Secure English Language Testing Services

IELTS Consortium

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## 1. INTRODUCTION

- 1.1 This Schedule sets out the terms and conditions governing the engagement, training, retention and requirements of Concessionaire's Personnel and any Sub-contractor personnel, and the obligations concerning Key Positions.
- 1.2 Each Party is responsible for ensuring that the details of its Personnel, as set out in this Schedule, are kept updated.

## 2. CONCESSIONAIRE PERSONNEL REQUIREMENTS

- 2.1 The Concessionaire shall use an adequate number of Concessionaire Personnel to fulfil the Authority's Requirements, and shall ensure that all Concessionaire Personnel who perform the Services are properly trained, competent and capable of meeting the requirements of the tasks assigned to them in a professional and timely manner and to a standard acceptable to the Authority.
- 2.2 The Concessionaire Personnel shall be trained, skilled and instructed in respect of their relevant positions and, in particular, in relation to:
  - 2.2.1 the duty or duties which that person has to perform and the relevant compliance issues appertaining to those duties, as required by this Concession Agreement;
  - 2.2.2 any relevant aspects of the Service Levels; and
  - 2.2.3 the need to observe standards of integrity, courtesy, consideration, equality and diversity in the performance of their duties in accordance with Good Industry Practice.
- 2.3 The Concessionaire shall ensure that all Concessionaire Personnel comply with:
  - 2.3.1 Schedule 2.2 (**Security**); and
  - 2.3.2 any applicable Authority Policy which shall include any health or safety requirements, building access and security procedures and the Authority's Policy relating to conduct of personnel admitted to Authority Facilities; and
  - 2.3.3 any applicable obligations of the Concessionaire under this Concession Agreement in respect of Confidential Information and data security.
- 2.4 All Concessionaire Personnel engaged in positions which require them to speak to Candidates must be appropriately skilled in the English language and, where the Services are provided in ROW, the native language(s) of the relevant country
- 2.5 The Concessionaire shall comply with Schedule 9.3 (Personnel Clearance Procedure) in respect of all Concessionaire Personnel. The Concessionaire shall not use any of its personnel to provide the Services who do not meet the Authority's security requirements, unless otherwise directed by the Authority. The Concessionaire will pay for all costs associated with its compliance with Schedule 9.3

(Personnel Clearance Procedure) in respect of all Concessionaire Personnel.

- 2.6 The Concessionaire shall procure that all of the Concessionaire Personnel have at all times the legal right to work in the relevant Country, as detailed with Schedule 9.3 (Personnel Clearance Procedure) in the fulfilment of the Authority's Requirements and shall retain records verifying compliance with all such relevant laws (including, if necessary, appropriate visas and/or work permits).
- 2.7 The Concessionaire shall assume full responsibility for the management of all Concessionaire Personnel and the acts or omissions of all Concessionaire Sub-contractors in the fulfilment of the Authority's Requirements.
- 2.8 The Concessionaire shall indemnify the Authority and keep the Authority indemnified against all Losses howsoever arising out of or relating to any Claim:
  - 2.8.1 arising from or as a result of any act or omission by the Concessionaire or the Sub-contractors relating to the Concessionaire Personnel or former Concessionaire Personnel; and
  - 2.8.2 by or on behalf of any member of the Concessionaire Personnel or former member of Concessionaire Personnel that he/she is employed by the Authority, or would be so employed had he/she not been dismissed by the Concessionaire.

### 3. REPLACEMENT PERSONNEL

- 3.1 The Authority, acting reasonably, may at any time, notify the Concessionaire that it requires the Concessionaire to replace any Concessionaire Personnel, stating the reasons for the requirement. Such reasons may include (but are not limited to) any situation where:
  - 3.1.1 there has been a breach of Law or the Authority Policies by that member of the Concessionaire Personnel;
  - 3.1.2 that member of the Concessionaire Personnel is a threat to the health, safety or security of any Candidate or the Authority's personnel, data or property;
  - 3.1.3 that member of the Concessionaire Personnel is not performing competently or performing in a way that is disruptive to the Authority's business; or
  - 3.1.4 that member of the Concessionaire Personnel is guilty of serious misconduct and/or immigration offences.
- 3.2 If the Concessionaire received a notice under Paragraph 3.1, the Concessionaire shall immediately withdraw that member of Concessionaire Personnel from being involved in the fulfilment of the Authority's Requirements.
- 3.3 If the Concessionaire is required to replace the relevant member of the Concessionaire Personnel in accordance with Paragraph 3, it shall do so with another individual with training, experience and skills suitable to meet the

requirements of the assigned tasks.

- 3.4 Nothing in this Concession Agreement shall grant the Authority the right to require the Concessionaire to terminate any individual's employment or engagement with the Concessionaire or any Concessionaire Sub-contractor.
- 3.5 The replacement of Concessionaire Personnel in accordance with this Schedule will be made at the Concessionaire's or the Concessionaire Sub-contractor's cost.

## 4. KEY POSITIONS

- 4.1 The list of Key Positions and the Concessionaire Key Representatives approved by the Authority to fill the Key Positions at the Permit to Operate Commencement Date; **are set out in Annex 9.2-1 to this Schedule.**
- 4.2 The Parties may agree new Key Positions from time to time but only in accordance with the procedure set out in Paragraph 4.5.
- 4.3 The Concessionaire shall:
  - 4.3.1 subject to Paragraph 4.4., ensure that:
    - a) as far as possible, the Key Positions are filled at all times;
    - b) each person in a Key Position is not reassigned or replaced for at least two (2) years following his or her appointment to the Key Position, where possible;
  - 4.3.2 only use the Concessionaire Personnel approved by the Authority in accordance with the procedure set out in Paragraph 4.5 to fill or replace someone in a Key Position;
  - 4.3.3 not replace a person in a Key Position unless the Concessionaire has complied with that procedure; and
  - 4.3.4 promptly notify the Authority if any person in a Key Position becomes unable to devote all of their time and effort on a full-time or part-time basis, as the case may be, in fulfilling the Authority's Requirements or gives notice of the termination of their employment or engagement.
- 4.4 Paragraph 4.3.1(b) shall not apply where any such member of the Concessionaire Personnel resigns from his or her employment, or terminates his or her contract with the Concessionaire (other than in circumstances where constructive dismissal is claimed), or is unable to work owing to mental or physical incapacity for a continuous period exceeding fifteen (15) Working Days, or is reasonably dismissed, or terminated, for misconduct or underperformance.
- 4.5 Before appointing or replacing a person in a Key Position, whether as an initial or subsequent appointment,:
  - 4.5.1 notify the Authority of the proposed appointment (if possible, at least twenty

(20) Working Days prior to the proposed appointment); and

4.5.2 if required by the Authority, provide the Authority with a curriculum vitae and other information about the individual reasonably, as requested by the Authority.

4.6 If the Authority in good faith objects to the proposed appointment under Paragraph 4.5, the Concessionaire shall attempt to resolve the Authority's concerns and, if the Parties are unable to resolve the Authority's concerns within five (5) Working Days, the Concessionaire shall not appoint the individual to that position and shall propose to the Authority the appointment of another individual of suitable ability and qualifications.

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## ANNEX 9.2-1

This Annex sets out the details of the Key Representatives of the Authority and the Concessionaire. Each Party is responsible for ensuring that the details of its Personnel, as set out in this Schedule, are kept updated

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