

<Redacted>



Home Office

AUTHORITY: The Secretary of State for the Home Department

Schedule 5.1 – Intellectual Property Rights

Secure English Language Testing Services

IELTS Consortium

DOCUMENT LIST

Volume	Title
	Concession Agreement
Schedules to Concession Agreement	SCHEDULE 1 Definitions
	SCHEDULE 2 Concession Requirement 2.1 Authority's Requirements 2.2 Security 2.3 Service Levels, Performance and Liquidated Damages
	SCHEDULE 3 Concessionaire's Solution
	SCHEDULE 4 Concessionaire Matters 4.1 Sub-Contractors 4.2 Commercially Sensitive Information
	SCHEDULE 5 IPR 5.1 Intellectual Property Rights
	SCHEDULE 6 Mobilisation 6.1 Mobilisation and Permit to Operate
	SCHEDULE 7 Financial Matters 7.1 Fees 7.2 Form of Guarantee
	SCHEDULE 8 Governance & Process 8.1 Governance and Contract Management 8.2 Change Control Procedure 8.3 Dispute Resolution Procedure 8.4 Audits, Records and Assurance 8.5 BCDR Plan 8.6 Exit Management 8.7 Management Information
	SCHEDULE 9 Personnel Matters 9.1 Personnel Transfer 9.2 Personnel and Key Representatives 9.3 Personnel Clearance Procedure

CONTENTS

1. INTRODUCTION	4
2. AUTHORITY'S INTELLECTUAL PROPERTY RIGHTS	4
3. CONCESSIONAIRE'S INTELLECTUAL PROPERTY RIGHTS	5
4. LICENCES GRANTED BY THE AUTHORITY	5
5. LICENCES GRANTED BY THE CONCESSIONAIRE.....	7
6. SOFTWARE	7

1. INTRODUCTION

- 1.1 This Schedule sets out the Parties' rights and obligations in relation to each Party's Intellectual Property Rights (hereafter referred to as "IPRs").

2. AUTHORITY'S INTELLECTUAL PROPERTY RIGHTS

- 2.1 Except as expressly set out in this Concession Agreement, neither the Concessionaire, its Affiliates, the Sub-contractors, Affiliates of Sub-contractors nor any Concessionaire Staff shall acquire any right, title or interest in or to the IPRs of any Authority or its licensors, including IPRs in the:

- a) Authority Software (if any);
- b) Authority Marks;
- c) Authority Data; and
- d) Authority Background Intellectual Property Rights.

- 2.2 Where the Concessionaire, any Affiliate of the Concessionaire, any Sub-contractor, any Affiliate of a Sub-contractor and/or any Concessionaire Personnel acquires, by operation of law, title to IPRs that is inconsistent with the allocation of title set out in Paragraph 2.1, the Concessionaire shall:

2.2.1 assign (and shall procure that relevant Affiliates of the Concessionaire, Sub-contractors, Affiliates of Sub-contractors and Concessionaire Personnel assign) such IPRs in writing with full title guarantee to the Authority (or, at the direction of the Authority, to such person as the Authority may nominate in writing) such that the ownership of IPRs is consistent with the allocation of title set out under Paragraph 2.1;

2.2.2 execute and deliver (and shall procure that relevant Affiliates of the Concessionaire, Sub-contractors, Affiliates of Sub-contractors and Concessionaire Personnel execute and deliver) all such documents as may be necessary to perfect the assignment referred to in Paragraph 2.2.1 to enable the Authority (or nominated person) to enjoy the full benefits of ownership of the relevant IPRs; and

2.2.3 procure that those Concessionaire Staff who are entitled to moral rights subsisting pursuant to the Copyright Designs and Patents Act 1988 (or equivalent or analogous rights under the laws of other jurisdictions), which exist or may arise in relation to any of the IPRs assigned pursuant to Paragraph 2.2.1 above shall unconditionally and irrevocably waive all such rights in favour of the Authority (or such other person as the Authority may nominate in writing).

- 2.3 The Concessionaire reserves the right to use in any future business and in any way it deems fit any Concessionaire Know How to the extent that this use does not result in an infringement of any IPRs of the Authority or its licensors.

3. CONCESSIONAIRE'S INTELLECTUAL PROPERTY RIGHTS

- 3.1 Except as expressly set out in this Concession Agreement, the Authority shall not acquire any right, title or interest in or to the IPRs of the Concessionaire, the Sub-contractors or any of the Concessionaire's or Sub-contractor's licensors, including IPRs in the:

- a) Concessionaire Background Intellectual Property Rights; and
- b) Project Material.

- 3.2 Where the Authority acquires, by operation of law, title to IPRs that is inconsistent with the allocation of title set out in Paragraph 3.1, the Authority shall:

3.2.1 assign such IPRs in writing to the Concessionaire with full title guarantee such that ownership of IPRs is consistent with the allocation of title set out under Paragraph 3.1;

3.2.2 execute and deliver all such documents as may be necessary to perfect the assignment referred to in Paragraph 3.2.1 and to enable the Concessionaire to enjoy the full benefits of ownership of the relevant IPRs; and

3.2.3 procure that those Authority employees who are entitled to moral rights subsisting pursuant to the Copyright Designs and Patents Act 1988 (or equivalent or analogous rights under the laws of other jurisdictions), which exist or may arise in relation to any of the IPRs assigned pursuant to Paragraph 3.2.1 above, shall unconditionally and irrevocably waive all such rights in favour of the Concessionaire.

- 3.3 The Authority reserves the right to use in any future business and in any way it deems fit any Authority Know How to the extent that this use does not result in an infringement of the IPRs of the Concessionaire or any Sub-contractor.

4. LICENCES GRANTED BY THE AUTHORITY

- 4.1 The Authority hereby grants to the Concessionaire (or shall procure the grant to the Concessionaire of) a royalty-free, non-exclusive, non-transferable licence within the United Kingdom to use and copy the Authority Licensed Materials.

- 4.2 The licence granted in Paragraph 4.1:
- 4.2.1 is subject always to the Concessionaire's obligations of confidentiality set under Clause 24 of this Concession Agreement;
 - 4.2.2 includes the right for the Concessionaire to grant sub-licences to Sub-contractors subject to the relevant Sub-contractor observing and complying with the Concessionaire's obligations of confidentiality set out in Clause 24 of this Agreement PROVIDED THAT the Concessionaire shall notify the Authority in writing in advance, should it wish to grant any such sub-licences;
 - 4.2.3 is subject to use solely to the extent necessary for performance of the Services in accordance with this Concession Agreement and the Concessionaire shall not (and shall procure that the Sub-contractors shall not) copy or adapt the Authority Licensed Materials for any other purpose or for the benefit of any person other than the Authority;
 - 4.2.4 is subject to the Concessionaire assigning to the Authority (and procuring that the Sub-contractors, the Affiliates of the Concessionaire, Affiliates of Sub-contractors and Concessionaire Staff assign to the Authority) all rights and interest in all adaptations and modifications made from time to time to any of the Authority Licensed Materials as set out in paragraph 4.3;
- 4.3 The Concessionaire hereby assigns and shall procure that Affiliates of the Concessionaire, Sub-contractors, Affiliates of Sub-contractors and Concessionaire Personnel assign to the Authority or the relevant licensor with full title guarantee all IPRs, right, title and interest to or in any adaptations of and/or modifications to the Authority Licensed Materials made by or on behalf of the Concessionaire, any Affiliate of the Concessionaire, any Sub-contractor, any Affiliate of a Sub-contractor and/or any Concessionaire Staff.
- 4.4 The Concessionaire shall procure that those Concessionaire Staff who are entitled to moral rights subsisting pursuant to the Copyright Designs and Patents Act 1988 (or equivalent or analogous rights under the laws of other jurisdictions), which exist or may arise in relation to any adaptations of and/or modifications to any Authority Licensed Material above shall unconditionally and irrevocably waive all such rights in favour of the Authority.
- 4.5 The Concessionaire shall (and shall procure that its Affiliates, the relevant Sub-contractors, Affiliates of Sub-contractors and Concessionaire Personnel) execute and deliver all such documents as may be necessary to perfect the assignment referred to in Paragraph 4.3 to enable the Authorities to enjoy the full benefits of ownership of the relevant IPRs.
- 4.6 In addition to the assignment under Paragraph 4.3, the Concessionaire hereby grants (and shall procure that any relevant third party licensor shall grant) to the Authority a

worldwide, royalty free, non-exclusive, irrevocable licence (together with a right to sublicense and commercially exploit) any Concessionaire Background IPRs, Concessionaire Software and IPRs owned by a third party that are embedded in or which are an integral part of such adaptations of and/or modifications to any Authority Licensed Material, in connection with the Authority's or any other person's use of or dealings in Authority Licensed Material and/or such adaptations and/or modifications.

- 4.7 The assignment under Paragraph 4.3 shall be a present assignment of future rights and the licence under Paragraph 4.5 shall be a present licence of future rights that will, in each case, take effect immediately on the coming into existence of the relevant IPRs.
- 4.8 Upon termination or expiry of this Concession Agreement the licence referred to in Paragraph 4.1 and any sub-licence granted in accordance with Paragraph 4.2 shall terminate automatically and the Concessionaire shall (and shall procure its Sub-contractors shall) deliver to the Authority all copies of the Authority Licensed Materials in its or its Sub-contractors possession or control in accordance with paragraph 3.1 of Schedule 8.6 (Exit Management).

5. LICENCES GRANTED BY THE CONCESSIONAIRE

- 5.1 The Concessionaire hereby grants to the Authority (or shall procure the grant to the Authority of) a royalty free, non-exclusive, non-transferable licence within the United Kingdom to use and copy the Project Materials.
- 5.2 The licence granted in Paragraph 5.1:
- 5.2.1 is subject always to the Authority's obligations of confidentiality set under Clause 24 of this Agreement; and
 - 5.2.2 is subject to use solely for the purpose of the Authority's management of the Services.
- 5.3 Upon termination or expiry of this Concession Agreement the licence referred to in Paragraph 5.1 shall terminate automatically and the Authority shall, on request, deliver to the Concessionaire all copies of the Project Licensed Materials in its possession or control in accordance with paragraph 3.3 of Schedule 8.6 (Exit Management).

6. SOFTWARE

- 6.1 If either Party requires, for the purposes of the operation of the Concession, a licence to use and/or to access any software or database which is furnished by the other Party for purposes related to the Services, appropriate licence terms for such access and/or use shall be agreed by the Parties in accordance with Schedule 8.2 (Change Control Procedure).