

CASL Management Development Limited

Standard Terms and Conditions for provision of Supervision and Management NVQ Assessments

CLIENTS

Please read these Terms and Conditions carefully. They apply to you whether you are an organisation, company, entity or body acting on behalf of an individual who is seeking to undergo the NVQ Assessment Process (as defined below) or if you are an individual who is seeking to undergo the Assessment Process personally.

CASL Management Development Limited is an approved assessment centre for Construction and Transportation NVQs at Levels 3, 4 and 5 with the Joint awarding body of Edexcel, Chartered Institute of Building (“**CIOB**”) and the Institution of Civil Engineers, the Open University and PAAVQ-SET.

1. Definitions

“ Assessor ”	such person or organisation who has been approved by the Provider to monitor and evaluate the Candidate through the NVQ Assessment Process;
“ Assessment Process ”	the assessment and qualification of the Candidate based on standards of performance and results achieved by the Candidate;
“ Candidate ”	the person undertaking the NVQ Assessment Process;
“ Candidate Profiling ”	the document as set out at Schedule 1 of these Terms;
“ Client ”	means an individual Candidate or an organisation, entity, company or body acting on behalf of an individual, as the context may allow, in respect of the purchase of the Service;
“ Conditions ”	means these conditions together with any amendments agreed in writing by an authorised officer or agent of the Provider but excluding any other terms purported to be included by the Client, whether by way of their order or otherwise;
“ Contract ”	means the contract for provision of the Service made between the Provider and the Client;
“ Fee ”	means the fees, exclusive of VAT, payable by the Candidate, or the Client on behalf of the Candidate, for the NVQ assessment as specified in the Start Letter;
“ Master Documents ”	means the course materials specific to the NVQ to be undertaken by the Candidate and required by the Candidate to complete the NVQ Assessment Process;
“ NVQ ”	means National Vocational Qualification;
“ NVQ Assessment ”	means the duration of the Assessment Process up to and including the Candidate reaching the appropriate level of competence;
“ Provider’s Products ”	means the Master Documents, information, documentation, software or data provided to the Candidate or to the Client on the Candidate’s behalf;
“ Provider ”	means CASL Management Development Limited (company number: 06044332) whose registered office is at Singleton Court Business Park, Wonastow Road, Monmouth NP25 5JA;
“ Registration Form ”	means the document attached as Schedule 2 of the Terms to be completed by the Candidate, or the Client on behalf of the Candidate;
“ Services ”	means the provision Master Documents, assessment of the Candidate by an Assessor, and the provision of Support;
“ Start Letter ”	the letter addressed to the Candidate, or the Client on the Candidate’s behalf which are attached to these Conditions; and
“ Support ”	means the provision of the SUPPORT as set out in condition 9.

2. Interpretation

- 2.1 These Conditions shall apply to all contracts for the provision of the Service by the Provider and shall bind the Client to the exclusion of all other terms and conditions including any terms or conditions which the Client may purport to apply under order confirmation of order for the Service or similar document.
- 2.2 All orders for the Service shall be deemed to be an offer by the Client for the Provider to provide the Service pursuant to these Conditions.
- 2.3 Acceptance of the provision of the Service shall be deemed conclusive evidence of the Client's acceptance of these Conditions.
- 2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by an authorised representative of the Provider. The following person is the authorised representatives of the Provider: Mr Lance Saunders.

3. The Contract

- 3.1 The Contract shall be between the Client and the Provider.
- 3.2 The Contract shall consist of the Start Letter, these Conditions and the Schedules attached to these Conditions. The Client should (where appropriate) retain each element of the Contract.

4. Provision of the Service and Provider's Obligations

- 4.1 The Provider agrees to provide the Service, subject to these Conditions, to the Client for the purposes of supporting the Candidate throughout the Assessment Process.
- 4.2 The date for provision of the Service shall be an estimate only and shall not be of the essence. The failure of the Provider to provide all or part of the Service on the due dates shall not entitle the Client to treat the Contract as repudiated.
- 4.3 The number of assessment meetings carried out by the Assessor shall be limited to four (4), but additional assessment meetings may be arranged, if deemed necessary by the Assessor, with the agreement of the Provider. The dates of the assessment meeting shall be agreed between the Candidate and the Assessor, and the failure of an assessment meeting taking place shall not affect the validity of the Contract.
- 4.4 The Assessment Process is an ongoing process and the Provider may provide the Service in separate stages and such stages shall be dependant on the progress of the Candidate undertaking the Assessment Process.
- 4.5 The failure of the Provider to provide or complete any one or more of the said stages of the Service on any due dates shall not entitle the Client to treat the Contract as repudiated.
- 4.6 Notwithstanding that the Provider may have delayed or failed to provide the Service (or any part of it) promptly the Client shall be bound to accept performance and to pay for the Service in full.
- 4.7 The Provider shall, on the successful Registration of the Candidate:
 - 4.7.1 provide to the Candidate, or to the Client on the Candidate's behalf, the Master Documents for the relevant NVQ identified as the relevant NVQ for the Candidate from the Candidate's Profiling and Registration Form;
 - 4.7.2 arrange the initial induction meeting between the Candidate and the Assessor where the standards and NVQ Assessment Process are set out to the Candidate which are required for the Candidate to achieve the relevant competence level;
 - 4.7.3 allocate an Assessor to the Candidate to assist in the Candidate's assessment and qualification through the Assessment Process; and
 - 4.8.3 provide ongoing on-line or telephone Support as specified in Condition 9. below.

5. Client's Obligations

- 5.1 The Client agrees and accepts that:
 - 5.1.1 they are responsible for the accuracy of the Candidate's information provided in the Candidate Profiling and Registration Form and that such information provided is complete, correct and accurate in all material respects;
 - 5.1.2 that the information provided by the Candidate, or by the Client on the Candidate's behalf, is used by the Provider and/or Assessor for the purposes of assessing the Candidate's suitability for the NVQ to be undertaken;
 - 5.1.3 the Provider and/or Assessor may be required to contact the Candidate's employer during the NVQ Assessment for the purposes of the Assessment Process;

- 5.1.4 the Provider is not responsible for the operation, monitoring, passing, failing, accreditation or certification of any NVQ course nor is the Provider responsible for the comments or guidance of each individual Assessor; and
 - 5.1.5 the Provider has the right to allocate an alternative Assessor to the Candidate at any time during the Contract.
- 5.2 The Provider may from time to time make changes in the specification of the Service which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality of the Service or where the Provider determines that an alternative Service of equal value and quality should be supplied.

6. Price and Payment

- 6.1 The Fee for the Service shall be the Fee specified in the Provider's Start Letter identifying the relevant NVQ assessment for the Candidate. On receipt of the Registration Form signed by the Candidate, or by the Client on the Candidate's behalf, an invoice for the Fee shall be submitted to the Client in writing, (which shall include facsimile and electronic mail).
- 6.2 The Fee shall be payable by the Client within thirty (30) days from the date of the invoice and, and unless otherwise agreed in writing by the Provider, shall be payable in full. Time for payment shall be of the essence.
- 6.3 Interest on overdue monies shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of two per cent (2%) above Lloyds TSB Bank plc's base rate from time to time in force and shall accrue at such rate after as well as before any judgment.
- 6.4 The Provider reserves the right to reclaim any costs, without limitation including legal costs and costs incurred by Provider or its agents, in the recovery of an unpaid Fee, or part of, due to the Provider under these Conditions.
- 6.5 The Provider may, by giving notice to the Client at any time up to seven (7) days before performance, increase the Fee of the Service to reflect any increase in the cost to the Provider to provide the Service which is due to factors occurring after the making of the Contract which are beyond the reasonable control of the Provider (including, without limitation, taxes and duties, and costs of materials). The continued acceptance of the Service by the Client after receipt of this notice will be deemed acceptance of any such increases.

7. Intellectual Property

- 7.1 The Client acknowledges that all copyright and other intellectual property rights in the Providers Products are and shall remain the property of the Provider or the property of the Provider's licensors, and the Client shall not by the virtue of these Conditions obtain or claim any right, title or interest in or to such copyright or intellectual property rights except the limited rights of use granted under these Terms. All rights not expressly granted under these Conditions are reserved.
- 7.2 The Provider grants to the Client a non-transferable, non-exclusive licence to use the Providers Products under this Contract.
- 7.3 The non-exclusive licence shall terminate upon the termination of this Contract for whatever reason.
- 7.4 The Client warrants that the Client and the Candidate shall only use the Providers Products for the Candidate's own personal educational purposes in connection with the relevant NVQ Assessment and shall not, without the prior written consent of the Provider, make available, reproduce, copy, sell, retransmit, disseminate, licence, distribute, publish, broadcast or otherwise circulate the Providers Products (or any part of them) to any person or organisation other than in accordance with this Contract.
- 7.5 The Client shall fully indemnify the Provider in respect of any infringement of any intellectual property rights arising as a result of their use of the Provider's Products in breach of this Contract.

8. Limitation of Liability

- 8.1 This condition 8 sets out the entire financial liability of the Provider (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:
 - 8.1.1 any breach of the Contract;
 - 8.1.2 any use made by the Client or the Candidate of the Service or any part of it; and
 - 8.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.
- 8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

- 8.3 Nothing in these Terms limits or excludes the liability of the Provider:
- 8.3.1 for death or personal injury resulting from negligence; or
 - 8.3.2 for any damage or liability incurred by the Client or the Candidate as a result of fraud or fraudulent misrepresentation by the Provider.
- 8.4 Subject to condition 8.2 and condition 8.3:
- 8.4.1 the Provider shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:
 - (a) loss of profits;
 - (b) loss of business;
 - (c) depletion of goodwill and/or similar losses;
 - (d) loss of corruption of data or information;
 - (e) loss of contract;
 - (f) loss of use; or
 - (g) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - 8.4.2 the Provider's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the Fee paid for the Service.

9. Support

- 9.1 The Provider will provide the Candidate with ongoing Support and advice throughout the Assessment Process and the duration of the Contract. The Support provided shall be limited to:
- 9.1.1 online Support via electronic communication; and
 - 9.1.2 telephone Support provided by the Assessor and/or the Provider.
- 9.2 The Provider will use reasonable skill and care in providing any Support to the Candidate and will use its reasonable endeavours to ensure that the Support is available to the Candidate when required.
- 9.3 The Client/Candidate acknowledges and accepts:
- 9.3.1 that periods of downtime may be required in respect of the online support provided to the Candidate and the online Support may not be available during these periods; and
 - 9.3.2 the telephone Support shall be available only during normal business hours, which shall be for the avoidance of doubt, 9.00am to 5.00pm Monday to Friday, excluding bank holidays, but the Provider and/or the Assessor will endeavour to provide Support to the Candidate promptly.
- 9.4 The Provider does not accept any liability to the Client or the Candidate for any delay in providing the Support to the Candidate. The Provider cannot guarantee uninterrupted availability of the Support, and the Provider excludes all other warranties, express or implied, as to the performance of the Support, except as expressly stated in the Conditions.
- 9.5 The Provider cannot guarantee that the Support provided by the Assessor or by a representative of the Provider will resolve the issues that the Candidate is experiencing.

10. Customer Care/Complaints

- 10.1 In the event that the Client, or the Candidate, is not satisfied with the quality of the Service provided under the Contract they should contact Mr Lance Saunders at the Provider's registered office as stated above.
- 10.2 In the event of dispute between the Client or the Candidate and the Provider as to the quality of the Service delivered, no right of set-off or deduction will thereby apply to the Service or any future or past Service.

11. Change of address or other contact details

- 11.1 The Provider must be notified in writing of any change in the Candidate's contact details, including the email address, postal address and contact telephone number specified in the Candidate's Registration Form.

12. Right of Refusal and Cancellation

- 12.1 The Provider reserves the right to refuse to accept an offer from the Client.

- 12.2 The Provider may cancel the Contract at any time before the Service is provided by giving written notice. On giving such notice the Provider shall promptly repay any sums paid in respect of the Fee less a reasonable sum to cover any costs incurred by the Provider to the date of termination, and the Client shall return to the Provider any Provider Products provided to the Client or the Candidate. The Provider shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.3 The Provider reserves the right to take legal action to recover the Provider Products in the event that the Client or Candidate continues to use the Provider Products after termination of the contract and the Client or Candidate shall be liable to the Provider for any costs incurred by the Provider in recovering the Provider Products.
- 12.4 In the event that any of the occurrences so described in paragraph 13.1 arises, the Provider may in its absolute discretion and without prejudice to any of its other rights suspend all future performance of the Service to the Client and/or terminate the Contract without liability on its part.

13. Insolvency

- 13.1 If any petition in bankruptcy is presented against the Client or the Client is unable to pay its debts when they fall due or if being a limited company any resolution or petition to wind up the Client shall be passed or presented or if a receiver administrative receiver or manager shall be appointed over the whole or any part of the Client's business or assets or if the Client shall suffer analogous proceedings under foreign law all sums outstanding in respect of the Contract shall become payable immediately.

14. Term

- 14.1 These Conditions are to come into effect from the date of the Contract and unless terminated sooner, as provided in condition 15, continue in force for the duration of the NVQ Assessment Process.

15. Termination

- 15.1 The Contract shall commence on the confirmation in writing from the Provider to the Client of registration of the Candidate, and (unless terminated by us earlier under condition 15.2) shall expire:
- 15.1.1 immediately upon the Client receiving confirmation that they have reached the appropriate level of competence;
 - 15.1.2 on confirmation in writing from the Provider that the mutual agreement between the parties that the Contract shall be terminated: or
 - 15.1.2 two (2) years after the date of registration of the Candidate if the Candidate has not yet reached the required level of competence.
- 15.2 The Provider may terminate this Contract immediately by written notice if:
- 15.2.1 the Client or the Candidate breaches any condition set out in these Conditions; or
 - 15.2.2 the Client fails to pay any Fee, (in part or in full) that become due under these Conditions
- 15.3 In the event of termination by the Provider the Client shall be required to forthwith return all property belonging to the Provider, including the Provider's Products, in the Client's or the Candidate's possession provided under these Conditions.
- 15.4 The Provider reserves the right to take legal action to recover the Provider Products in the event that the Client or Candidate continues to use the Provider Products after termination of the Contract and the Client or Candidate shall be liable to the Provider for any costs incurred by the Provider in recovering the Provider Products.

16. Distance Selling Regulations

- 16.1 In accordance with the provisions of the Consumer Protection (Distance Selling) Regulations 2000, where the Client is an individual, acting as a consumer for the purposes of the Regulations, the Client has the right to cancel the Contract with the Provider in respect of the Service.
- 16.2 This right of cancellation lasts for a period of seven (7) calendar days from the day the Provider sends written confirmation of the Contract. This right of cancellation shall not affect the Client's statutory rights. Should the Client, being an individual, wish to exercise this right of cancellation they should send confirmation in writing to Provider's registered address.

17. Data Protection

- 17.1 The Client acknowledges and agrees that details of the Client and Candidate's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Provider in connection with the Services.

- 17.2 The Client agrees that, in relation to the information held from time to time, the Provider may:
- 17.2.1 use the information to perform their obligations and enforce rights under the Contract;
 - 17.2.2 use the information to inform the Client about course, products or services which may be of interest to them;
 - 17.2.3 share the information with the Provider's group companies to inform the Client about other products or services which be of interest to them; and
 - 17.2.4 communicate with the Candidate or the Client in respect of the Candidate regarding their progress.
- 17.3 Clients of Candidates have the right to receive details of the personal information held by the Provider from time to time. A fee of £10.00 will be payable upon a request for such information.
- 17.4 In the event that the Client does not wish to receive correspondence from the Provider, a written request should be sent to the address specified in the start letter.

18. Force Majeure

- 18.1 The Provider shall have no liability to the Client or the Candidate under the Contract if it is prevented from or delayed in performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

19. Assignment

- 19.1 The Provider may assign, license or sub-contract all or any part of its rights and obligations under the Contract without the Client's consent.
- 19.2 The Client shall not, without the prior written consent of the Provider, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

20. Severability/Invalidity

- 20.1 If any provision (or part of a provision) of these is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 20.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 20.3 The parties agree, in the circumstances referred to in condition 20.1 and if condition 20.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

21. Notices

- 21.1 Any notice required or authorised to be given the Provider under the Contract to the Client of the Candidate shall be in writing and deemed properly served by electronic mail, post or facsimile transmission to the Client or the Candidate at the address, electronic mail address or fax number specified by the Client or the Candidate under this Contract or at such other address, electronic mail address or facsimile specified by the Client/Candidate in writing to the Provider from time to time.
- 21.2 Any such notice shall operate and be deemed to have been served at the expiration of one (1) day after the day on which it is posted or transmitted. In proving such service it shall be sufficient to show that the envelope containing the notice was properly addressed and posted or that the transmission was duly despatched and acknowledged as the case may be.

22. Jurisdiction

- 22.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 22.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter.