



**Terms and Conditions for use of
The Skills Organisation Online Services Portal**

By using this portal to register with The Skills Organisation, or to book and complete an assessment (where available) you agree to the following Terms and Conditions.

There are two schedules of Terms and Conditions;

Schedule 1 – General terms and conditions applicable to all users of the portal.

Schedule 2 – Specific terms and conditions applicable to FINANCIAL SERVICES CANDIDATES using the portal to register, book and/or submit evidence for an examination or assessment.



Schedule 1 - **General Terms and Conditions for trainees using The Skills Organisation's Online Services Portal**

ANY ACCESS TO OR USE OF THE PORTAL BY YOU CONSTITUTES YOUR ACCEPTANCE OF THE TERMS OF THESE TERMS AND CONDITIONS.

1 Access

We agree to provide you with access to the Online Services Portal via the Internet ('Agreement'). You acknowledge that the access to and use of the Portal may be impaired or prevented by a variety of factors beyond our control, for instance defects in your computer system and problems with internet connectivity between you and our server, and that we are not responsible for any such factors or their effects.

2 Your obligations. You must:

- a supply us with true, accurate, current and complete information upon request and maintain and promptly update such information to keep it true, accurate, current and complete;
- b select an access password that is not readily able to be guessed and regularly change access passwords in accordance with good computer security practice; and
- c keep your account access details and access password secure and confidential and if your account access details become compromised, change your access password immediately.

3 Warranties

3.1 **No warranties or representations:** We give no warranties and make no representations of any kind relating to the Online Services Portal including, without limitation, any implied warranties of non-infringement, fitness for a particular purpose, or merchantability, and we exclude all warranties to the maximum extent permitted by law. The Online Services Portal is made available to you strictly on an 'as is' basis.

3.2 **Consumer Guarantees Act:** You acknowledge and agree that all services supplied under these Terms and Conditions are acquired for the purposes of a business and that the guarantees provided under the Consumer Guarantees Act 1993 shall not apply.

4 Limitation of liability

4.1 **Our liability:** Except to the extent that it is unlawful to exclude such liability:

- a We will not in any circumstances [including, without limitation, negligence or breach of statutory duty] be liable for any loss of profits, loss of revenue, loss of savings, loss of data, or for any indirect, consequential, special, exemplary, punitive, incidental, or other loss or damages regardless of the form of action or theory of liability even if we are advised of the possibility of such loss or damages.

5 Intellectual property

5.1 **Ownership.** The content of the Online Services Portal is the intellectual property of The Skills Organisation.

5.2 **Restrictions:** You must not, without our prior written consent (which may be withheld or granted subject to conditions):

- a decompile, reverse engineer, disassemble, modify, adapt, create derivative works from, or otherwise attempt to derive, the software code or structure, ideas or algorithms underlying the Online Services Portal;

- b sell, rent, lease, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine readable form the Online Services Portal, in whole or in part;
- c use the Online Services Portal or permit it to be used, for the provision of consulting services to third parties, for the purposes of software development, or for commercial time sharing, service bureau or similar use; or
- d commit any act or omission the likely result of which is that our reputation will be damaged or which act or omission could reasonably be expected to have or does have a material and adverse effect on our interests.

6 Confidential information

You acknowledge that the Online Services Portal's content is our Confidential Information. You will keep secret and confidential at all times, all Confidential Information of Skills and will not use, communicate, cause to be communicated, copy, make available or otherwise resupply any such Confidential Information to any person except as is reasonably necessary for the purposes of these Terms and Conditions, or as otherwise required by law.

7 Personal information

7.1 **General:** Skills will use any 'personal information' (as that term is defined in the Privacy Act 1993) provided by you through using the Online Services Portal for the purposes of providing assessment services to you. Your personal information is collected by Skills and may be held by Skills from time to time. The address of Skills is: Level 2, LG House, The Crossing, Business Parade, Highbrook, East Tamaki, Auckland 2013. If you do not provide the personal information requested we may not be able to provide the services you require.

7.2 **Access and correction of personal information:** You may upon request obtain from Skills confirmation of whether or not it holds personal information about you in the Online Services Portal. You may at any time request correction of your personal information.

7.3 **Data:** By accepting the terms of these Terms and Conditions, you acknowledge that your personal details and assessment results may be sent to the New Zealand Qualifications Authority, the Tertiary Education Commission and your employer [if applicable], and that, Skills may receive your assessment results from the New Zealand Qualifications Authority.

8 Termination

8.1 **Termination for breach:** if you don't comply with these Terms and Conditions we may, in our sole discretion, terminate your access password, account or use of the Online Services Portal.

8.2 **Termination without breach:** Either you or we may terminate this Agreement at any time for any reason by giving not less than 30 days' prior written notice, which notice may be given by us via the login screen.

8.3 **Consequences of termination:** If this Agreement is terminated for any reason:

- a your right to access or use the Online Services Portal is immediately revoked; and
- b you shall not attempt to access or use the Online Services Portal.

8.4 **Preservation of rights:** Termination of this Agreement shall not affect:

- a the rights of a party which accrued up to and including termination; or
- b the provisions of this Agreement which by their nature, survive termination namely section 3 (Warranties), section 4 (Limitation of liability), section 5 (Intellectual property), section 6 (Confidential Information), section 7 (Personal information), and this section 8.

Schedule 2 - Terms and Conditions applicable to FINANCIAL SERVICES CANDIDATES using the Skills Organisation Online Portal to register, book and/or submit evidence for an assessment or examination.

THE SKILLS ORGANISATIONS' GENERAL TERMS AND CONDITIONS FOR THE SKILLS ORGANISATION ONLINE PORTAL, IN SCHEDULE 1, ARE TO BE READ WITH THESE TERMS AND CONDITIONS. ANY ACCESS TO OR USE OF THE REGISTRATION AND BOOKING FACILITY BY YOU CONSTITUTES YOUR ACCEPTANCE OF BOTH THE SKILLS ORGANISATIONS' GENERAL TERMS AND CONDITIONS AND THESE ADDITIONAL TERMS AND CONDITIONS. **ASPEQ** MEANS ASPEQ LIMITED, A DULY INCORPORATED COMPANY HAVING ITS REGISTERED OFFICE IN LOWER HUTT CONTRACTED BY SKILLS FOR THE PROVISION OF THE EXAMINATION SYSTEM

1 Candidate's obligations

You must present assessment material and documents that are your own work, that are genuine and do not contain false or misleading statements. Discovery that material or documents are not your own work may result in termination of your assessment, removal of any credit achieved from your record of learning and notification to the Financial Markets Authority.

2 Payment

2.1 **General:** Payment of the Fees is not required at the stage of Candidate Registration. However, when you select assessment or examination, the applicable Fees are calculated and become due for payment immediately. Examination Fees are collected via the Secure Payment Process (unless you are selecting examination as a Bulk Subscription Candidate in which case clause 2.2 shall apply). The Secure Payment Process is provided by Aspeq and Aspeq is responsible for all matters regarding the Secure Payment Process. The portfolio assessment Fees are made by the candidate to Skills over the telephone through a payment management system.

2.2 **Bulk Subscription Candidates:** If you are a Bulk Subscription Candidate then you may access Candidate Registration and proceed to portfolio assessment or examination **provided that** the entity or organisation which pays the Fees has been invoiced

3 Limitation of Liability

3.1 **Interpretation of legislation:** You acknowledge that to prepare assessments for financial advisors' Skills has had to interpret the relevant laws and regulations pertaining to financial advisors including, without limitation, the Financial Advisers Act 2008 (**'Financial Advisers' Laws**'). Skills does not represent or warrant that any assessment for financial advisors is an authoritative interpretation of the Financial Advisers' Laws. Skills recommends that you seek independent legal advice in relation to your obligations under the Financial Advisers' Laws. You agree and warrant that you will not rely on Skills' interpretation of the Financial Advisers' Laws and agree to waive any and all claims against Skills resulting from your reliance on any information included in an assessment. Skills will not under any circumstances be liable under the law of tort (including negligence), contract or otherwise for any loss of income, profits or savings or for any indirect, incidental, consequential, exemplary, punitive or special loss or damage of any party (including third parties), however caused, arising out of or in connection with any assessment or your reliance on information included in an assessment.

4 Intellectual property

4.1 **Ownership:** The content of the Assessment System and Services, all examination form and content, and assessment material is the intellectual property of Skills and the Assessment System and Services utilises the services of Aspeq. You acknowledge that the Assessment System and Services, all examination form

and content, assessment material and all intellectual property rights in relation to the same are the property of Skills, Aspeq or a third-party licensor (as the case may be). Skills, Aspeq and any third-party licensor are entitled to take whatever lawful action they may decide in order to protect their rights in the Assessment System and Services, examination form and content, and assessment material.

5 Personal information

- 5.1 **Data:** By accepting the terms of this Agreement, you acknowledge that your personal details and assessment results may be sent to the Financial Markets Authority, the New Zealand Qualifications Authority, the Tertiary Education Commission or your Delegated Assessment Organisation and that, where you are assessed by a party other than Skills or Aspeq, Skills may receive your assessment results from the New Zealand Qualifications Authority.

6 Portfolio Assessment

- 6.1 **Cancellation:** You may cancel an assessment at any time prior to or following the addition of documents to the portfolio **provided that** such cancellation is received by us prior to both completion of the portfolio and commencement of assessment of the portfolio. Cancellations received by us after completion of the portfolio or commencement of assessment of the portfolio will be accepted only on medical grounds (on production by you of a medical certificate proving medical incapacity) or on compassionate grounds (on production by you of acceptable evidence of compassionate circumstances) within 10 days of receipt of the cancellation notification by us. Skills reserves the sole right to determine the validity or otherwise of reasons given or evidence provided by you to support grounds for cancellation.
- 6.2 **Cancellation Fee:** The Fee for cancellation of a workplace assessment is \$380 + GST [or \$130 + GST if you are a member of a Delegated Assessment Organisation] per assessment.
- 6.3 **Assessment Results:** Results will be available through your secure log-in following quality assurance and reporting. Under no circumstances will assessment results be given by telephone, by fax, or to a third party, other than, as per Clause 5.1, to the Financial Markets Authority, the New Zealand Qualifications Authority, the Tertiary Education Commission or your Delegated Assessment Organisation (if applicable).
- 6.4 **Assessment Appeal:** You may apply for an appeal in the assessment process if you are dissatisfied with either the process or the assessor's decision. The application for an appeal must be received by SKILLS within one calendar month of receipt by you of the assessor's decision. The Fee for an assessment appeal is \$350 + GST ('**Appeal Fee**'). If an assessment appeal initiated by a Candidate results in a 'not yet competent' result being changed to a 'competent' result, then the Appeal Fee will be refunded to you.
- 6.5 **Booking Expiry:** If you do not conclude an assessment within nine (9) months of completing the online booking (assessment reservation) for such assessment then that online booking will expire. If an online booking for an assessment expires you will:
- a forfeit all Fees paid in respect of such assessment; and
 - b not be permitted to undertake such assessment without completing another online booking for such assessment and paying all applicable Fees for such assessment.

7 Examinations

- 7.1 **Booking Confirmation:** A booking confirmation for an examination may be printed by you only once the online booking (assessment reservation)] for the examination has been completed. The booking confirmation will provide examination centre information and the date and time of the examination sitting.
- 7.2 **Examination Date:** You acknowledge that bookings for examinations are based on availability and that Skills and Aspeq cannot guarantee that any particular exam date that you request will be available. If a particular exam date is not available, you may be booked into the next (or a subsequent) available examination session.
- 7.3 **Examination Cancellation:** Skills reserves the right to cancel an examination sitting. In such an event, bookings will be transferred to the next available examination sitting at the same examination centre or, at the candidate's instruction, to another examination centre, at no extra cost. You will be contacted by Aspeq and a new booking confirmation with the updated information will be forwarded to you.
- 7.4 **Proof of Identity:** To gain entry to any examination sitting, proof of identity must be provided by you to the examination supervisor. Acceptable forms of identity are either a valid passport or a New Zealand Driver's Licence or such other alternative proof of identity as is deemed acceptable, entirely at the discretion of Skills and / or Aspeq. Failure to supply acceptable positive identification will result in your exclusion from such examination and the forfeiture by you of all Fees paid or payable.
- 7.5 **Session roll:** You are required to sign a session roll before the commencement of any examination. By doing so, you agree to follow all instructions given by the examination supervisors and invigilators, and that you have read and understood the 'Notice To Candidate' information handed out by those persons.
- 7.6 **Transfer:** You may request to transfer an examination booking from one date or examination centre to another date or examination centre ('**Transfer Request**') for a Fee of \$50 + GST per examination. Transfer Requests can be made by you up to 5 working days before the relevant examination date. Transfer Requests received by us less than 5 working days prior to the relevant examination date may be accepted by us at our discretion upon production by you of a medical certificate, or for any other exceptional reason at Skill's absolute discretion.
- 7.7 **Cancellation:** You may cancel an examination at any time prior to 5 working days before the relevant examination date. Cancellations received by us less than 5 working days from the examination date will be accepted only on medical grounds (on production by you of a medical certificate proving medical incapacity) or on compassionate grounds (on production by you of acceptable evidence of compassionate circumstances) within 10 days of the cancellation notification by us. Skills reserves the sole right to determine the validity or otherwise of reasons given or evidence provided by you to support grounds for cancellation. For the avoidance of doubt, lack of adequate time for preparation, being insufficiently prepared, traffic delays, and vehicle problems will under no circumstances be accepted by us as valid reasons for not attending, or being late for, an examination.
- 7.8 **Cancellation Fee:** The Fee for cancellation of an examination booking is \$85 + GST per examination.
- 7.9 **Examination Start Times:** You acknowledge that the start time for all examinations will be strictly enforced by the supervisor of the examination. We recommend you arrive at least 40 minutes before the scheduled start time. You must arrive at least 30 minutes before the scheduled start time or you will not be granted entry to the examination room, and the examination Fee will be forfeited by you. For the avoidance of doubt, if you fail to arrive at an examination you will

forfeit the relevant examination Fee. Once any examination has begun, you may leave the examination room at any time, but if you do so, you may not re-enter the examination room.

- 7.10 **Examination Marking and Results:** Your examination response will be automatically marked and results will be available to you through your secure log-in following completion of the relevant examination sitting. Under no circumstances will examination results be given by telephone, by fax, or to a third party, other than, as per Clause 5.1 the Financial Markets Authority, the New Zealand Qualifications Authority, the Tertiary Education Commission or your Delegated Assessment Organisation [if applicable].
- 7.11 **Review:** You may apply for a review of your examination result if you are dissatisfied with the outcome. Any application for an examination review must be received by Skills within one calendar month of the examination sitting. The Fee for an examination review is \$150 + GST for each examination review (**Review Fee**). If an examination review results in a 'not yet passed' examination result being changed to a 'passed' examination result, then the Review Fee will be refunded to you.
- 7.12 **Technical Failure:** Neither Skills or Aspeq shall be liable for failure to deliver booked examinations where the failure is attributable to technical infrastructure failure outside Skills or Aspeq's control.
- 7.13 **Booking Expiry:** If you do not conclude an examination within nine [9] months of completing the online booking for such examination then that online booking will expire. If an online booking for an examination expires you will:
- a forfeit all Fees paid in respect of such examination; and
 - b not be permitted to undertake such examination without completing another online booking for such examination and paying all applicable Fees for such examination.