

TRINITY COLLEGE LONDON

TERMS OF USE - EXAMINER TABLET AND APPS

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THE EXAMINER TABLET AND APPS

1. TERMS OF USE

- 1.1 We provide you on a free loan basis with an android tablet computer ("**Examiner Tablet**") loaded with a software application ("**Mobile App**") designed to be used in conjunction with a specific Trinity web-based application suite ("**Web App**", including the Trinity websites relevant to that web-based application suite such as Trinity Online). These terms and conditions of use (which include the licence set out in clause 6) ("**Terms of Use**"), together with any other terms referred to in them, set out the terms and conditions upon which you may make use of the Mobile App and the Web App (together the "**Examiner Apps**"). Use of the Examiner Apps includes accessing, browsing and carrying out actions in relation to either or both of them.
- 1.2 In using the Examiner Tablet, you are bound to abide by our Acceptable Use of Computing and Communications Resources Policy and our Data Protection Policy [[create links to those](#)].
- 1.3 Please read these Terms of Use carefully before you first use the Examiner Apps. In particular, we draw your attention to clause 2 ("Privacy Policy and Other Applicable Terms"), clause 6 ("Grant and Scope of Licence"), clause 7 ("Using the Examiner Apps"), clause 9 ("Intellectual Property Rights"), clause 10 ("Limitation of Liability"), clause 12 ("Suspension and Termination") and clause 13 ("General"). We recommend that you print a copy of these Terms of Use for your future reference.
- 1.4 Any words following the terms "including", "include", "in particular" or "for example" or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.5 The first time you attempt to use the Mobile App you will be presented with these Terms of Use, which you must read carefully. At that time you can either accept these Terms of Use by ticking a box stating "*I Accept*" or choose not to do so.
- 1.6 By ticking the "*I Accept*" box you confirm that you accept these Terms of Use and agree to be legally bound by them.

2. PRIVACY POLICY AND OTHER APPLICABLE TERMS

- 2.1 The Examiner Apps are made available to you free of charge. You are responsible for making all arrangements necessary in order for you to use the functionality of them. You must keep your User ID, password and pin safe, secure and confidential. You must also treat as confidential any other user identification code or piece of information chosen by you or allocated to you as part of the Examiner Apps' or Trinity's security procedures. You must not disclose any of them to any third party.
- 2.2 2.2.1 These Terms of Use refer, in places, to our Examiner Privacy Policy

www.trinitycollege.examiner.privacy.co.uk) which sets out the terms upon which we process any personal data we collect from you, or that you provide to us;

- 2.2.2 By agreeing to the terms of our Examiner Privacy Policy, you consent to such processing and you warrant that all data provided by you is accurate;
- 2.2.3 Our Examiner Privacy Policy also contains information about the cookies used in relation to the Examiner Apps. Please ensure that you read it carefully before accepting it;
- 2.2.4 Additionally, by using the Examiner Apps you:
 - (a) acknowledge and agree that internet transmissions are never completely private or secure. You understand that any message or information you send using the Examiner Apps may be read or intercepted by others, even if there is a special notice that a particular transmission is or may be encrypted;
 - (b) consent to us collecting and using technical information about the Examiner Tablet, the Mobile App and related software, hardware and peripherals (if any) to improve the Examiner Apps generally and to provide the Web App and any related services to you.
- 2.2.5 The Web App will make use of location data sent from the Examiner Tablet. You can turn off this functionality at any time by turning off the location services settings for the Mobile App on the Examiner Tablet but be aware that the Mobile App will lose certain functionality (such as the correct time at the location) if you do. By using the Mobile App with the location service settings active, you consent to the transmission, collection, maintenance, processing and use of your location data by us in connection with your use of the Examiner Tablet and Examiner Apps.
- 2.3 These Terms of Use apply to updates and supplements to the Examiner Apps and any services accessible through the Examiner Apps, except where such services come with separate terms, in which case those separate terms apply.
- 2.4 From time to time updates to the Mobile App may be issued to you through the Web App. Depending on the update, you may not be able to use the Examiner Apps until you have downloaded or streamed the latest version of the Mobile App and accepted any new terms.
- 2.5 If any open-source software is included in the Examiner Apps or any services accessible through the Examiner Apps, the terms of the applicable open-source licence may override some of the terms of these Terms of Use.

3. INFORMATION ABOUT US

The Examiner Apps are owned or controlled, and operated by Trinity College London ("Trinity"/"we"/"our"/"us"), which is a private company limited by guarantee registered in England and Wales (registered number 02683033) whose registered office is at 4th Floor, 89 Albert Embankment, London SE1 7TP, United Kingdom. We are also a registered charity in England and Wales under no. 1014792. Our UK VAT registration number is 680767793.

4. CHANGES TO THESE TERMS

We may revise these Terms of Use at any time by sending you an email with details of the change or notifying you of a change when you next start the Mobile App or log on to the Web App. The new terms may be displayed on-screen and you may be required to read and accept them to continue your use of the Examiner Apps.

5. CHANGES TO THE EXAMINER APPS

- 5.1 Subject to the notice period set out below, we may update the Examiner Apps from time to time, and may change the content at any time.
- 5.2 In the case of planned functional or technical changes to the Examiner Apps, we will use reasonable endeavours to give you advance notice of such changes by whatever means we deem appropriate.
- 5.3 You agree that advance notice need not be given where we implement such cosmetic, functional or technical changes as we, in our reasonable opinion, consider necessary to maintain the integrity, stability or capabilities of the Examiner Apps or to prevent any deterioration in their functionality.

6. GRANT AND SCOPE OF LICENCE

- 6.1 The licence under clause 6.2 is granted only for the purposes of your work as an examiner for such Trinity exams as the functionality of the Examiner Apps allows from time to time (the "**Purpose**").
- 6.2 In consideration of your agreeing to abide by the terms of these Terms of Use, we grant you a non-transferable, non-exclusive licence to use the right to access and use the Examiner Apps for the Purpose only, subject to these Terms of Use, the Examiner Privacy Policy any other terms incorporated into these Terms of Use by reference.
- 6.3 We reserve all other rights in the Examiner Apps.
- 6.4 Except as expressly set out in these Terms of Use or as permitted by any local law, you agree:
 - 6.4.1 not to copy the Examiner Apps or any part of any of them except where such copying is incidental to the normal use of them, or where it is necessary for the purpose of back-up or operational security;
 - 6.4.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Examiner Apps or any of them;
 - 6.4.3 not to make alterations to, or modifications of, the whole or any part of the Examiner Apps, or permit the Examiner Apps or any part of any of them to be combined with, or become incorporated in, any other programs;
 - 6.4.4 not to disassemble, decompile, reverse-engineer or create derivative works based on the whole or any part of the Examiner Apps or attempt to do any such thing except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of either of the Examiner Apps with another software program, and provided that the information obtained by you during such activities:

- (a) is used only for the purpose of achieving inter-operability of either of the Examiner Apps with another software program;
 - (b) is not unnecessarily disclosed or communicated without our prior written consent to any third party; and
 - (c) is not used to create any software that is substantially similar to either of the Examiner Apps;
- 6.4.6 not to provide or otherwise make available the Examiner Apps in whole or in part (including object and source code), in any form to any person without prior written consent from us; and
- 6.4.7 to comply with all technology control or export laws and regulations that apply to the technology used or supported by the Examiner Apps ("**Technology**").

7. USING THE EXAMINER APPS

- 7.1 You may use the Examiner Apps for lawful purposes only.
- 7.2 You may not use the Examiner Apps:
- 7.2.1 in any way that breaches any applicable local, national or international law or regulation or puts Trinity in breach of any of its statutory obligations anywhere in the world;
 - 7.2.2 in any manner inconsistent with these Terms of Use;
 - 7.2.3 in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
 - 7.2.4 to send, knowingly receive, upload, download, use or re-use any material which does not comply with our content standards (see below);
 - 7.2.5 in any way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users of the Examiner Apps;
 - 7.2.6 to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam); or
 - 7.2.7 in such a way as may infringe our intellectual property rights or those of any third party.
- 7.3 You must:
- 7.3.1 treat as confidential all information and personal data provided through or recorded on the Examiner Apps (including without limitation that of other examiners, of our Trinity service providers and of our candidates to our Exams);
 - 7.3.2 exercise proper custody and control of all such personal data, information and content; and
 - 7.3.3 use and/or process such personal data, information and content only for the purpose of obtaining information about the Exams, attending Exams (including

travel timetables and itineraries to and from such Exams), examining candidates in those Exams (including recording their performances), submitting candidates' scores, submitting feedback about candidates and the Examination in question, and reviewing and amending such scores and feedback.

- 7.3.4 The confidentiality obligation set out under clause 7.3.1 does not apply to information and content which Trinity has already released in the public domain.
- 7.4 Whenever you make use of a feature in the Mobile App that allows you to upload content to or synchronise content with the Web App, or to make contact with other users of the Web App (if this functionality is or becomes available), you must comply with the content standards set out below, both literally and in spirit. The standards apply to each part of any content uploaded or synchronised as well as to its whole.
- 7.5 The content mentioned in clause 7.4 above must:
- 7.5.1 be accurate (where it states facts); and academically sound;
 - 7.5.2 be genuinely held (where it states opinions); and
 - 7.5.3 comply with applicable law in the UK and in any country from which it is posted.
- 7.6 The content mentioned in clause 7.4 above must not, except where permitted by law:
- 7.6.1 contain any material which is defamatory of any person;
 - 7.6.2 contain any material which is obscene, offensive, hateful or inflammatory;
 - 7.6.3 promote discrimination based on a protected characteristic such as race, sex, religion, nationality, disability, sexual orientation or age;
 - 7.6.4 infringe any copyright, database right or trade mark of any other person;
 - 7.6.5 be likely to deceive any person;
 - 7.6.6 be made in breach of any legal duty owed to a third party or to Trinity, such as a contractual duty or a duty of confidence;
 - 7.6.7 promote any illegal activity;
 - 7.6.8 be threatening, abusive or wrongly invade another's privacy;
 - 7.6.9 be likely to harass any other person;
 - 7.6.10 be used to impersonate any person, or to misrepresent your identity or affiliation with any person;
 - 7.6.11 give the impression that they emanate from us, if this is not the case; or
 - 7.6.12 advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse.
- 7.7 In connection with content that you deal with as specified in clause 7.4:

- 7.7.1 you warrant that it complies with the standards set out above, and that you will be liable to us and indemnify us for any breach of that warranty;
- 7.7.2 you agree that we:
- (a) have the right to disclose your identity to any third party who is claiming that it constitutes a violation of their intellectual property rights, or of their right to privacy;
 - (b) will not be responsible or liable to any third party for it (including its accuracy);
 - (c) we have the right to remove it if, in our opinion, it does not comply with the content standards set out above.
- 7.8 You warrant that you will only use the content delivered through the Examiner Apps which is to be used in the examination of candidates for the Exams (e.g. backing tracks and musical notations) for the purposes of those Exams and not for any other purpose or in any other way.
- 7.9 We do not guarantee that the Web App or any content on it will always be available or be uninterrupted but we will endeavour to give you reasonable notice of any planned or routine maintenance to the Web App which will result in it being unavailable or of restricted functionality.
- 7.10 Notwithstanding the terms of clauses 5.2 and 7.10 above, we reserve the right to suspend, withdraw, discontinue or change all or any part of the Web App without notice in some circumstances, for example, to maintain the integrity of the Web App and its contents during a malicious attack.
- 7.11 If we become aware that there has been a security issue in relation to the Web App we will, as soon as reasonably practicable, notify you accordingly and, at that time or shortly afterwards, inform you of our strategy and timetable to counter or rectify that security issue.
- 8. INTERNET ACCESS CHARGES AND THIRD PARTY WEBSITES**
- 8.1 Please be aware that you may be charged by your internet service provider or some other third party for internet access on the Examiner Tablet. You accept responsibility in accordance with these Terms of Use for the use you make of the Examiner Tablet.
- 9. INTELLECTUAL PROPERTY RIGHTS**
- 9.1 You acknowledge that all intellectual property rights anywhere in the world in the Examiner Apps (including in content delivered through them for the purpose of the Exams and the technology in them) belong to us or our licensors or are used by us in accordance with applicable law, that the rights in the Examiner Apps are licensed (not sold) to you, and that you have no rights in, or to, the Examiner Apps (including in the content delivered through them or the technology in them) other than the right to use the Examiner Apps in accordance with these Terms of Use.
- 9.2 You acknowledge that you have no right to access the Examiner Apps or any part of them in source-code form.

9.3 You hereby assign to Trinity all intellectual property right in any and all content created by you for the Purpose, including all examiner marks and examiner comments which you may record on the Examiner Apps.

9.4 You acknowledge and agree that the Trinity College London name and logo are registered trademarks of Trinity College London.

10. LIMITATION OF LIABILITY

10.1 Nothing in these Terms of Use excludes or limits our liability for death or personal injury arising from our negligence, or our fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited by English law.

10.2 The Examiner Tablet and the Examiner Apps are provided to you free of charge. Bearing this in mind, you agree that to the extent permitted by law, it is reasonable for us to exclude all conditions, warranties, representations or other terms, whether express or implied, which may apply to the Examiner Apps or any content provided through them.

10.3 Similarly, you agree that we will not be liable to you or any other user for any loss or damage, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, even if foreseeable, arising under or in connection with your:

10.3.1 use of, or inability to use, the Examiner Apps; or

10.3.2 use of or reliance on any content provided through them where you have not first checked the provenance and accuracy of that content with us.

10.4 You acknowledge that the Examiner Apps are to be used purely for business use (in the context of Trinity's examination activities only) and not in any way for personal use, and agree that we will not be liable for, in particular:

10.4.1 loss of profits, sales, business, or revenue;

10.4.2 business interruption;

10.4.3 loss of anticipated savings;

10.4.4 loss of business opportunity, goodwill or reputation; or

10.4.5 any indirect or consequential loss or damage.

10.5 Subject to clause 10.1 above, our total liability to you, in respect of all other losses suffered by you and arising under or in connection with any breach of these Terms of Use, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed £50,000.

10.6 You agree to take good care of the Examiner Tablet and not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of Trinity in the Examiner Tablet.

11. VIRUSES AND UNAUTHORISED ACCESS

11.1 Whilst we make every effort to ensure that our computer infrastructure is secure and error and virus free, we do not warrant that content available for downloading through the Examiner Apps will be free from infection, viruses and/or other code that has contaminating or destructive properties.

- 11.2 You are responsible for using and keeping up to date (where this is not carried out automatically) the anti-virus software present on the Examiner Tablet given to you. We will not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect that tablet or any computer equipment, computer programs, data or other proprietary material that you link to it, due to your failure to do this.
- 11.3 You must not misuse the Examiner Apps by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful or attack the Web App or other Trinity websites via a denial-of-service attack or a distributed denial-of service attack.
- 11.4 You must not attempt to:
 - 11.4.1 gain unauthorised access to the Web App, the server on which the Web App is stored or any server, computer or database connected to the Web App.
 - 11.4.2 collect or harvest any information or data from any of the Examiner Apps or our systems or attempt to decipher any transmissions to or from the servers running the Web App other than those which are permitted under these Terms of Use.

12. SUSPENSION AND TERMINATION

- 12.1 We will determine, in our discretion, whether there has been a breach of these Terms of Use through your use of the Examiner Apps (including your use of content) and where a breach of these Terms of Use has occurred, we reserve the right to take such action as we deem appropriate.
- 12.2 Failure to comply with these Terms of Use may result in our taking all or any of the following actions:
 - 12.2.1 immediate, temporary or permanent withdrawal of your right to use the Examiner Apps (including remotely disabling your ability to use them) and, if we so request, you shall immediately deliver, at your cost and expense, the Examiner Tablet to us at the address given for us in these Terms of Use;
 - 12.2.2 immediate, temporary or permanent removal of any posting or content uploaded by you to the Examiner Apps;
 - 12.2.3 issue of a warning to you;
 - 12.2.4 issue of further legal action against you (or the use of alternative dispute resolution forums if agreed with you),
 - 12.2.5 legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) resulting from your failure to comply;
 - 12.2.6 disclosure of such information to law enforcement authorities as we reasonably consider necessary.

12.3 We exclude liability for actions taken in response to your failure to comply with these Terms of Use. The responses described above are not limited, and we may take any other action we reasonably deem appropriate.

13. GENERAL

13.1 We will not be liable to you for any failure of ours to perform any obligation owed to you due to reasons beyond our reasonable control, for example, industrial disputes, technical difficulties, failure of or delays in communications networks, acts of terrorism or power failure.

13.2 Save as otherwise expressly stated, these Terms of Use and the Privacy Policy contain the entire agreement between us and you relating to your possession of the Examiner Tablet and your use of the Examiner Apps and supersede any previous agreements, arrangements, undertakings or proposals, written or oral, between us and you. No party shall have any claim for innocent or negligent misrepresentation based upon any statement in these Terms of Use.

13.3 In the event that any provision of these Terms of Use is held to be illegal, invalid or unenforceable, such provision will be severed and the remainder of these Terms of Use shall continue in full force and effect.

13.4 If you breach these Terms of Use and we take no action against you, we will still be entitled to enforce our rights against you in relation to that breach and to use our rights and remedies in any other situation where you breach these Terms of Use.

13.5 We reserve the right to assign or sub-contract any or all of our rights and obligations under these Terms of Use. These Terms of Use are personal to you and entered into by you for your own benefit and not for the benefit of any third party.

13.6 These Terms of Use are governed by and are to be construed in accordance with English law. This means that any dispute or claim arising out of or in connection with them will be governed by English law. You and we both agree to the exclusive jurisdiction of the courts of England and Wales.

Last Revised: [INSERT DATE]