

# PASSION



## FOR

### Terms and Conditions to **Passion4Performance (P4P)**

BY USING THE **Passion4Performance**, YOU AGREE TO THESE TERMS OF USE. IF YOU DO NOT AGREE TO THESE TERMS OF USE, PLEASE DO NOT USE **Passion4Performance**.

#### 1. Roles and Access

Welcome to **Passion4Performance** (the "Software as a Service" and support tool), you have access to a variety of resources and content which include: **P4P**

- 1.1 **Post training assessment checklists:** different performance and portfolio checklists, messages, text, images, photographs, graphics, audio and video such as podcasts and Webcasts, and documents such as press releases, white papers and product data sheets
- 1.2 **Portfolio of evidence (POE's):** this is where an individual's evidence that was uploaded for every and any checklist, qualification, training course, assessment, self-application is stored
- 1.3 **Assessors:** Any person who has the right to assess a checklist, qualification, training course, assessment, self-application
- 1.4 **Coaches/ mentors:** Any person who has the right to coach/mentor any learner, employee or user, on the permissible checklists, qualifications, training courses, assessments, self-applications at the discretion or request of the individual learner, employee or user
- 1.5 **Support Services:** **P4P** offers continued guidance, assistance, follow up, help and discussions around the functionality, user experience and usage process of **P4P**.
- 1.6 **Feedback Options:** **P4P** provide continued feedback on what is being developed, new idea and concepts. Also on any "help tickets" that are logged (on every page). **P4P** also seeks feedback from our users, to ensure that what we release on every future release is what our users actually require.
- 1.7 **Reporting:** **P4P** in a progressive and learning SaaS. Therefore all reporting will continually be developed over the growth of the System. ALL users will have access to the reporting modules as they are released
- 1.8 **Types of Users:**
  - 1.8.1 **Individual Active:** this is an individual user, who accesses **P4P** on the minimum of one active checklist.
  - 1.8.2 **Company Active:** this is a company who provides access to access to users on **P4P** with the minimum of one active checklist.
  - 1.8.3 **Individual Dormant:** this is a user how has previously accessed **P4P** and is currently NOT on an active checklist.
  - 1.8.4 **Company Dormant:** this is a Company how has previously had users access P4P from their portfolio, and currently does not have on an active checklist.
  - 1.8.5 **Individual Inactive:** this is any individual that has made use of **P4P** and is no longer permitted to access the system for any reason. The individual and all of their content, will be removed from P4P.

- 1.8.6 **Company Inactive:** These are companies that made use of **P4P** and are no longer permitted to access the system for any reason that the **P4P** team has decided. The company and all of its content, will be removed from **P4P** .

To make use of Software, Materials, Community Services, Information and offerings, content and services are collectively referred to as "Content."

By accessing or using the (**P4P** \_SaaS) or the Content provided on or through the **P4P**, you agree to follow and be bound by the following terms and conditions concerning your access to and use of **P4P** and the Content provided on or through **P4P** ("Terms and Conditions") and our "[Privacy Policy](#)".

**Passion4Performance** and its affiliated companies ("We" or "PassionFor" Group) may revise the Terms of Use and Privacy Policy at any time without notice to you. The revised Terms of Use and Privacy Policy will be effective when posted. You can review the most current Terms of Use at "[URL](#)" and Privacy Policy at "[URL](#)"

## 2. Terms Applicable to Specific Content and Areas **Passion4Performance**

**Passion4Performance** provides the user with different "roles" as described in point 1 (and based on feedback these will increase with **P4P** into the future). Each role has independent reporting functions, access permissions and separate functionalities, which in some cases are (and will) be integrated (and continually reviewed and developed).

In the case of company usage, there will be "levels" assigned to the roles. The different levels will have different accesses and rights as defined by the company.

Depending on your allocated "role" (or combination of roles) or/and the "level", some areas and functionality of **P4P** or "Content" provided on or through **P4P** may not be accessible to you.

There is the possibility that there are additional rules, guidelines, license agreements, user agreements or other terms and conditions that apply to your accessibility or use of specific areas of **P4P** or Content (including terms and conditions applicable to a corporation or other organisations and its users).

If there is a conflict or inconsistency between the Terms of Use and the rules, guidelines, license agreement, user agreement or other terms and conditions for a specific area of the Site or for specific Content, the latter shall have precedence with respect to your access and use of that area of the **P4P** or Content.

## 3. Use of Site

Your use of **Passion4Performance** is subject to all agreements such as the user agreement that accompanies the database, ordering documents, exhibits, and other terms and conditions that apply ("License Terms"). In the event that your licence / subscription has expired your access to functionality within the site will be revoked and you will need to re-subscribe to access full functionality again. **P4P** reserves the right to alter the level of functionality for any role, level, subscribed or un-subscribed users at any time without any notice. All the POE information captured to this point will always be available to the individual user and the company who was responsible for the subscription of the user for the time that the POE was updated for the specific qualification, training course, checklist, and all other functions. **P4P** will deliver a full backup in the form of a DVD or CD as required – of User Data in .BAK format by registered mail (in RSA) or courier for

international postage, if the customer agrees to pay an agreed "quoted amount" per backup copy + postage.

#### 4. Use of Material

You may download, store, display on your computer, view, listen to, play and print Materials that **Passion4Performance** publishes or broadcasts or makes available for download subject to the following:

- (a) the Materials may be used solely for your personal, informational, non-commercial purposes;
- (b) the Materials may not be modified or altered in any way; and
- (c) the Materials may not be redistributed – unless expressly stipulated or with written permission.

All information that is captured onto **Passion4Performance** remains YOUR property unless there are other agreements in place between you and a 3<sup>rd</sup> party.

#### 5. Reservation of Rights

The database design and backend functionality of **P4P** is the intellectual property and copyrighted works of **P4P**. All rights, titles and interest not expressly granted with respect to **P4P** and Content provided on or through **P4P** are reserved. All Content is provided on an "As Is" and "As Available" basis, and **P4P** reserves the right to terminate the permissions granted to you in Sections 2 - 4 above and your use of the Content at any time – if the contract is breached in any way.

#### 6. Your Content

**Passion4Performance** agrees that all information you have captured on the site in terms of: Checklists, assessment criteria, POE elements, Job Profiles, Code of Conducts, daily assessment checks, performance reviews, IR/ER paperwork, Certification, Identification documents, declarations, appeals, process or any other information will remain the property of YOU and or your company (depending on your 3<sup>rd</sup> party agreements) and we will not make use of any of these material without express written permission from you and/your company. **P4P** does not in any way over write, alter or change any 3<sup>rd</sup> party agreements that are in place

You agree that you will complete all data accurately, objectively and with the focus on corrective growth for the users. All information capturing will take place in accordance with agreed time frames and you will ensure that you take full responsibility for your own performance.

You agree that you will only upload, share, post, publish, transmit, or otherwise make available ("Share") on or through **P4P** Content that you have the right and authority to Share and for which you have the right and authority to grant to **Passion4Performance** all of the licenses and rights set forth herein. By Sharing Content, you grant **Passion4Performance** a worldwide, perpetual, royalty-free, irrevocable, nonexclusive, fully sub-licensable license to use, reproduce, modify, adapt, translate, publish, publicly perform, publicly display, broadcast, transmit and distribute the Content for any purpose and in any form, medium, or technology now known or later developed. This includes, without limitation, the right to incorporate or implement the Content into any **Passion4Performance** product or service, and to

display, market, sublicense and distribute the Content as incorporated or embedded in any product or service distributed or offered by P4P without compensation to you.

You warrant that:

- (a) you have the right and authority to grant this license;
- (b) P4P exercise of the rights granted pursuant to this license will not infringe or otherwise violate any third party rights; and
- (c) all so-called moral rights in the Content have been waived to the full extent allowed by law.

You agree that you will not Share any Content that:

- (a) is binary executable code;
- (b) is false or misleading;
- (c) is defamatory, derogatory, degrading or harassing of another or constitutes a personal attack;
- (d) invades another's privacy or includes another's confidential, sensitive or personal information;
- (e) promotes bigotry, racism, hatred or harm against any group or individual;
- (f) is obscene or not in good taste;
- (g) violates or infringes or promotes the violation or infringement of another's rights, including intellectual property rights;
- (h) you do not have the right and authority to Share and grant the necessary rights and licenses for;
- (i) violates or promotes the violation of any applicable laws or regulations;
- (j) contains a solicitation of funds, goods or services, or promotes or advertises goods or services; or
- (k) contains any viruses, Trojan horses, or other components designed to limit or harm the functionality of a computer.

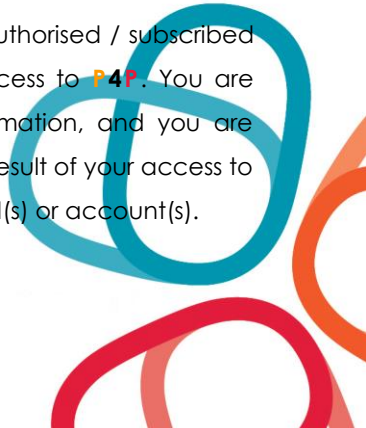
**Passion4Performance** need to receive confidential information from you through or in connection with the Site. Anything that you may note or state in connection with Sharing Content, it shall be considered confidential information and shall be received and treated by **Passion4Performance** on as confidential and restricted basis.

## 7. Security, Passwords and Means of Accessing the Site and Content

You agree not to access or use P4P in any manner that could damage, disable, overburden, or impair any of your company or **Passion4Performance** accounts, computer systems or networks. You agree not to attempt to gain unauthorised access to any parts of the Site or any of your company or **Passion4Performance** accounts, computer systems or networks.

You agree, personally, not to interfere or attempt to interfere with the proper working of P4P or, any P4P companies, client, user or accounts, computer systems or networks. You agree not to use any robot, spider, scraper or other automated means to access the Site or any of your company or **Passion4Performance** accounts, computer systems or networks without **Passion4Performance** express written permission.

Access to and use of password protected or secure areas of P4P is restricted to authorised / subscribed users only. You agree not to share your password(s), account information, or access to P4P. You are responsible for maintaining the confidentiality of password(s) and account information, and you are responsible for all activities that occur under your password(s) or account(s) or as a result of your access to P4P. You agree to notify P4P immediately of any unauthorised use of your password(s) or account(s).



## 8. No Unlawful or Prohibited Use

You agree not to use the Site or Content provided on or through the Site for any purpose that is unlawful or prohibited by these Terms of Use, or the rules, guidelines or terms of use posted for a specific area of the Site or Content provided on or through **P4P**.

### 8. Indemnity

You agree to indemnify and hold harmless **P4P** its officers, directors, employees and agents from and against any and all claims, liabilities, damages, losses or expenses, including reasonable attorneys' fees and costs, due to or arising out of Content that you Share, your violation of the Terms of Use or any additional rules, guidelines or terms of use posted for a specific area of the Site or Content provided on or through **P4P**, or your violation or infringement of any third party rights.

**Passion4Performance** is an assessment tracking and performance management tool, and thus cannot guarantee increased performance by usage. The accuracy of all results is totally, entirely and solely dependent on the information that is provided by the users. To increase performance remains the role of the individual and company and it's constituents.

### 9. Monitoring

**Passion4Performance** has no obligation to monitor **P4P** or screen Content that is shared on or through **P4P**. However, **Passion4Performance** reserves the right to review the Site and Content and to monitor all use of and activity on the Site. **P4P** will discuss with you or the company representative should we be required to remove or choose not to make available on or through the Site any Content. Should we feel that your company representative is skirting the discussion, **P4P** holds the right to remove any information at our sole discretion until discussions have been made.

**P4P** will track industry statistics, and if you and your company are representative, we hold the right to use the results (anonymously) to provide industry statistics as a whole. At no time will personal, private confidential information be given out. Combined statistics will be provided as an industry offering to our users on an annual basis.

### 10. Termination of Use

**Passion4Performance** may, in its sole discretion, at any time discontinue providing or limit access to the Site, any areas of the Site or Content provided on or through the Site. You agree that **Passion4Performance** may, in its sole discretion, at any time, terminate or limit your access to or use of the Site or any Content. **P4P** will terminate or limit your access to or use of the Site if, under appropriate circumstances, you are determined to be a repeat infringer of third party copyright rights. You agree that **P4P** shall not be liable to you or any third-party for any termination or limitation of your access to or use of the Site or any Content.

### 11. Third Party Web Sites, Content, Products and Services

**P4P** will provide links to Websites and access to Content, products and services of third parties, including users, advertisers, affiliates and sponsors of **P4P**. **Passion4Performance** is not responsible for third party



Content provided on or through the Site and you bear all risks associated with the access and use of such Web sites and third party Content, products and services.

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**Passion4Performance** MAKES NO WARRANTY THAT:

- (A) THE SITE WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS  
OR
- (B) THE QUALITY OF ANY CONTENT PURCHASED OR OBTAINED BY YOU ON OR THROUGH THE SITE WILL MEET YOUR EXPECTATIONS.

**Passion4Performance**™ WARRANTIES THAT

- (A) THE SITE OR CONTENT WILL MEET YOUR REQUIREMENTS BASED ON THE INFORMATION YOU PROVIDED
- (B) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SITE OR ANY CONTENT PROVIDED ON OR THROUGH THE SITE WILL BE ACCURATE OR RELIABLE BASED ON THE INFORMATION THAT YOU HAVE PROVIDED;
- (C) ANY CONTENT ACCESSED, DOWNLOADED OR OTHERWISE OBTAINED ON OR THROUGH THE USE OF THE SITE IS USED AT YOUR OWN DISCRETION AND RISK. **Passion4Performance** SHALL HAVE NO RESPONSIBILITY FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF CONTENT.

**Passion4Performance** MAKES NO WARRANTY THAT RESERVES THE RIGHT TO MAKE CHANGES OR UPDATES TO, AND MONITOR THE USE OF, THE SITE AND CONTENT PROVIDED ON OR THROUGH THE SITE AT ANY TIME WITHOUT NOTICE.

ONLY ON CONTINUED SUBSCRIPTION DOES **Passion4Performance** OFFER CONTINUED AND UNLIMITED CHANGES TO ANY AND EVERY PART OF THE INFORMATION THAT YOU HAVE PROVIDED.

## 13. Limitation of Liability

IN NO EVENT SHALL **Passion4Performance** BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR USE, INCURRED BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING FROM YOUR ACCESS TO, OR USE OF, THE SITE OR ANY CONTENT PROVIDED ON OR THROUGH THE SITE.

## 14. Exclusions and Limitations

SOME JURISDICTIONS DO NOT ALLOW THE DISCLAIMER OR EXCLUSION OF CERTAIN WARRANTIES OR THE DISCLAIMER, EXCLUSION OR LIMITATION OF CERTAIN LIABILITIES. TO THE EXTENT THAT THEY ARE HELD TO BE LEGALLY INVALID, DISCLAIMERS, EXCLUSIONS AND LIMITATIONS SET FORTH IN THESE TERMS OF USE, INCLUDING





THOSE SET FORTH IN SECTIONS 13 AND 14, DO NOT APPLY AND ALL OTHER TERMS SHALL REMAIN IN FULL FORCE AND EFFECT.

## 15. Pricing options

**Passion4Performance** will always carry different pricing options – which can change at any time. The pricing structure are as follows:

**Individual Pricing** – this is the pricing for an individual person to remain a member of **P4P** through their career and personal growth

**Company/Training Provider:** this pricing is based on a sliding scale and linked to the number of users who are actively registered on **P4P**

**Partner Pricing:** this price is based on mutual benefit for **P4P** and the partner to have continued access to **P4P**

If you are unsure of your options, please feel free to contact [info@p4d.co.za](mailto:info@p4d.co.za) for guidance.

## 16. Privacy Policy

**Passion4Performance** is concerned about your privacy and has developed a policy to address privacy concerns. For more information, please see **Passion4Performance** [Privacy Policy](#). Any personal information collected on this Site may be accessed and stored globally and will be treated in accordance with **Passion4Performance** [Privacy Policy](#).

## 17. Note About Minors

Minors are not eligible to use the Site, and we ask that they do not submit any information to us. If the Minor needs to submit information, it MUST be through a consenting adult (+21) assessor.

## 18. Export Restrictions/Legal Compliance

You may not access, download, use or export the Site, or the Content provided on or through the Site, in violation of RSA export laws or regulations, or in violation of any other applicable laws or regulations. You agree to comply with all export laws and restrictions and regulations of any Republic of South Africa or foreign agency or authority, and not to directly or indirectly provide or otherwise make available the services and products of **Passion4Performance** in violation of any such restrictions, laws or regulations, or without all necessary approvals, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction and of missile technology. As applicable, you shall obtain and bear all expenses relating to any necessary licenses and/or exemptions with respect to your own use of the services of **Passion4Performance** outside the RSA. Neither the services of **Passion4Performance** nor the underlying information or technology may be downloaded or otherwise provided or made available, either directly or indirectly

- (a) into Cuba, Iran, North Korea, Sudan, Syria or any other country subject to RSA trade sanctions, to individuals or entities controlled by such countries, or to nationals or residents of such countries other

than nationals who are lawfully admitted permanent residents of countries not subject to such sanctions; or

(b) to anyone on the RSA Treasury Department's list of Specially Designated Nationals and Blocked Persons or the RSA Commerce Department's Table of Denial Orders. By agreeing to these Terms of Use, you agree to the foregoing and represent and warrant that you are not located in, under the control of, or a national or resident of any such country or on any such list.

### 19. Applicable Laws

All matters relating to your access to, and use of, **P4P** and Content provided on or through or uploaded to **P4P** shall be governed by RSA law. Any legal action or proceeding relating to your access to, or use of, the Site or Content shall be instituted in the High Court of Gauteng South Africa. You and **Passion4Performance** agree to submit to the jurisdiction of, and agree that venue is proper in, these courts in any such legal action or proceeding.

### 19. Copyright/Trademark

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### 20. Contact Information

If you have any questions regarding these Terms of Use, please contact **Passion4Performance** at [legal@p4d.co.za](mailto:legal@p4d.co.za) . If you have any other questions, contact information is available at the Contact **PassionFor Group** page on the Site.

