



BIIAB

Centre

Agreement

SAMPLE

This agreement is made on 2nd May 2024

Parties

- (1) **BIIAB Qualifications Limited**, a company incorporated and registered in England and Wales with company number 10054831, whose registered office is at Robins Wood House, Robins Wood Road Aspley, Nottingham, Nottinghamshire, NG8 3NH ("**BIIAB**"); and
- (2) **[Centre Name]** a company registered in **United Kingdom** with a Company Number **[Company Number]** whose registered office is at **[Address]** and whose BIIAB Recognised Centre Number is **[Centre Number]** (the "**Centre**"), together the "**Parties**" and each a "**Party**".

Attention is particularly drawn to Part 2 of this Agreement (Centre Requirements and Obligations) and clause 22 (Limitation of Liability and Indemnity).

1. Definitions and interpretation

- 1.1 The definitions and rules of interpretation in this clause and Schedule 2 (Definitions) apply to this Centre Agreement:
- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.4 The Centre Agreement shall be binding on the Parties to the Centre Agreement and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.
- 1.5 A reference to a statute, statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 A reference to Regulatory Requirements is a reference to such Regulatory Requirements as may be amended, extended or re-enacted from time to time.
- 1.7 A reference to writing or written includes email.

- 1.8 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 The Schedules form part of the Centre Agreement and shall have effect as if set out in full in the body of this Centre Agreement. Any reference to this Centre Agreement includes the Schedule.

Part 1 Recognised Centre Agreement

2. Agreement

- 2.1 An Application for Centre Recognition shall be treated as an offer to enter into a Centre Agreement with BIIAB, but shall not be binding on BIIAB.
- 2.2 The Centre Agreement shall come into effect and become binding and enforceable on both Parties on the Commencement Date and shall continue, unless terminated earlier in accordance with the provisions of this Centre Agreement.
- 2.3 Subject to a valid and current Approval, the Centre shall be entitled to deliver Qualifications subject to, the provisions of the Centre Agreement.
- 2.4 This agreement, together with the Application for Centre Recognition, any Application for Qualification Approval, any Criteria and the BIIAB Policies and Procedures constitute the terms of the Centre Agreement to the exclusion of any other terms that the Centre seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.5 If there is an inconsistency between the provisions of this agreement, the Application for Centre Recognition, Application for Qualification Approval, Criteria and/or any of the BIIAB Policies and Procedures, the following order of priority shall apply:
- The provisions of this agreement;
 - Any Criteria;
 - BIIAB Policies and Procedures;
 - Application for Qualification Approval; and
 - Application for Centre Recognition.
- 2.6 The Centre waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Centre that is inconsistent with the Centre Agreement.

Part 2 Centre Requirements and Obligations

3. General

3.1 The Centre shall at all times:

3.1.1 use its best endeavours to protect the interests of Learners in connection with the Delivery of Qualifications;

3.1.2 take all reasonable steps to ensure that BIIAB is able to comply with the applicable Regulatory Requirements;

3.1.3 comply with all laws and regulations relating to its activities under the Centre Agreement;

3.1.4 comply with the BIIAB Policies and Procedures;

3.1.5 comply with all legislation and guidance from relevant public bodies in respect of safeguarding and protection of those who come into contact with the Centre;

3.1.6 promptly comply with requests for information or documents made by BIIAB or the Regulator(s);

3.1.7 provide assistance, on request, to BIIAB in carrying out any of its monitoring activities and co-operate with BIIAB in all matters related to the Delivery of Qualifications, including by allowing BIIAB's staff access to any Centre's offices and teaching/examination/assessment sites and its Workforce;

3.1.8 provide all reasonable assistance to Learners and BIIAB in respect of any transfer of Learners to a different Recognised Centre;

3.1.9 assist the Regulator(s) and any other relevant regulatory bodies in any investigations made for the purposes of performing regulatory functions;

3.1.10 comply with directions and/or sanctions imposed by BIIAB in accordance with the Centre Agreement and/or BIIAB Policies and Procedures, including the Sanctions Policy;

3.1.11 promptly notify BIIAB if it becomes subject to Change of Control or an Insolvency Event; ensure that it has effective communication systems in place with each Satellite Site to keep such Satellite Site up to date with the Regulatory Requirements and the requirements of BIIAB;

3.1.12 promptly notify BIIAB if it becomes subject to any enforcement or regulatory proceedings, that may affect its ability to deliver the Qualifications in accordance with the Centre Agreement; and

- 3.1.13 comply with, and procure that its Workforce comply with, any terms of use of BIIAB Systems.
- 3.2 The Centre shall be solely responsible for obtaining (at its own cost) any licences or permits necessary for the Delivery of Qualifications(if any).
- 3.3 The Centre shall inform BIIAB as soon as reasonably practicable if it, in its reasonable opinion, is or is likely to become unable to deliver any or all of the Qualifications in accordance with the terms of the Centre Agreement, in which case BIIAB shall be entitled, without prejudice to BIIAB's other rights and remedies, to modify, suspend or withdraw the Approval (in full or in part, including in respect of one or more Qualifications).
- 3.4 The Centre shall be responsible for all Delivery locations it uses and BIIAB reserves the right to visit any at any time in accordance with the provisions of the Centre Agreement.
- 3.5 In the event the Centre wishes to modify, add or withdraw certain or all of the Qualifications from its Approval, or amend or add examination/assessment venue, it shall submit an application to BIIAB, in the form prescribed by BIIAB from time to time. Approval of any such application shall be at BIIAB's sole discretion.
- 3.6 Where a Qualification specification and/or guide specifies a mode of Delivery, the Recognised Centre may not change this mode of Delivery without the prior consent of BIIAB.

4. **Identification and management of risk**

The Centre shall:

- 4.1 take all reasonable steps to ensure that it does not render BIIAB unsuitable to continue to award its qualifications or perform its functions as an Awarding Organisation/Body, whether directly or indirectly, and whether by any act or omission; and
- 4.2 comply with the Conflict of Interest Policy.

5. **Conflicts of interest**

5.1 The Centre shall:

- 5.1.1 establish, maintain and comply with a conflict of interest policy which is complementary to the relevant BIIAB Policies and Procedures;
- 5.1.2 identify, record and monitor:

- (a) all conflicts of interest which relate to it, including personal interests that arise and which cannot be avoided; and
 - (b) any scenario in which it is reasonably foreseeable that any such conflict of interest could arise in the future;
- 5.1.3 notify BIIAB promptly of any conflicts of interest which relate to it, including personal interests.
- 5.1.4 take all reasonable steps to ensure that no conflict of interest which relates to it has an Adverse Effect.
- 5.1.5 in any case where a conflict of interest nonetheless results in an Adverse Effect, without prejudice to the provisions of clause 4, cooperate with any action taken by BIIAB that seeks to mitigate the Adverse Effect as far as possible and correct it.
- 5.2 The Centre shall not permit any part of the assessment of a Learner (including by way of moderation) to be undertaken by any person who has a personal interest in the result of the assessment.
- 6. **Resources**
- 6.1 The Centre shall:
 - 6.1.1 retain a Workforce of appropriate size and competence to undertake the Delivery of the Qualifications, including sufficient managerial and other resources to enable it effectively and efficiently to deliver the Qualifications;
 - 6.1.2 notify BIIAB promptly of any change of details of its Key Personnel including assessors and those responsible for internal quality assurance;
 - 6.1.3 provide its Workforce with appropriate training and professional development to ensure maintenance and development of appropriate level of skills and competence, in accordance with good industry practice and any BIIAB's directions from time to time, in connection with the Delivery of Qualifications;
 - 6.1.4 maintain an appropriate level of financial resources to support the Delivery of Qualifications in accordance with the Centre Agreement;
 - 6.1.5 regularly monitor both physical and human resources it requires in order to deliver the Qualifications to the Learners;
 - 6.1.6 ensure that the Workforce are familiar with and comply with both the requirements of the Centre Agreement and the BIIAB's Policies and Procedures;

- 6.1.7 allow its Workforce to participate in events and activities that are essential for maintaining the quality and standard of the Qualifications; and
- 6.1.8 have in place at all times an up-to-date disaster recovery and business continuity plan to protect the interests of Learners.

7. **Malpractice and maladministration**

The Centre shall adopt, and ensure compliance with, a policy and procedure, complementary to BIIAB's Policies and Procedures on malpractice and maladministration, that allows for the identification of, and aims to reduce, the risk and incidents of malpractice or maladministration occurring.

8. **Enrolment/Registration, assessments and moderation**

8.1 The Centre shall:

- 8.1.1 enrol Learners promptly in accordance with BIIAB's Enrolment Policy; and
- 8.1.2 assess Learners in accordance with the BIIAB's Policies and Procedures;

9. **Security**

- 9.1 The Centre must comply with all of BIIAB's security requirements, as notified to the Centre or published by BIIAB from time to time, including those concerning the storage of any examination/assessment papers and the verification of Learners' identity.
- 9.2 The Centre shall notify BIIAB as soon as reasonably practicable of any incident or risk of any incident which could result in the Centre's non-compliance with BIIAB's examination/assessment security requirements and take all reasonable steps to prevent the breach occurring, or where it cannot be prevented, reduce the risk of that incident occurring as far as possible.

10. **Promotion**

- 10.1 The Centre shall not promote in any way any BIIAB qualifications without a valid and current Approval.
- 10.2 The Centre shall not make any statement in relation to a Qualification which is likely to mislead Learners, potential Learners or any other persons, or which is not consistent with the scope of the Approval and/or any specifications and guides issued by BIIAB in respect of such Qualifications.

11. **Review, monitoring and complaints**

- 11.1 The Centre shall ensure that all aspects of the Delivery of Qualifications are subject to monitoring and review, and are in accordance with the terms of the Centre Agreement at all times.
- 11.2 The Centre shall, on request from BIIAB:
 - 11.2.1 provide the results of such monitoring and review to BIIAB; and/or
 - 11.2.2 obtain feedback on Qualifications from Users.
- 11.3 The Centre shall operate an effective and appropriate complaints handling procedure and appeals process for the benefit of Learners, in compliance with the relevant BIIAB Policies and Procedures.

12. **Withdrawal**

- 12.1 The Centre shall, in the event it decides to (for any reason), or if BIIAB decides to, withdraw the Approval (including as a result of suspension, expiry or termination of Approval) (in full or in part):
 - 12.1.1 comply with BIIAB Policies and Procedures for the withdrawal of Approval;
 - 12.1.2 promptly prepare, maintain and comply with a written withdrawal plan;
 - 12.1.3 cooperate fully with BIIAB;
 - 12.1.4 provide clear and accurate information about the withdrawal to the Users;
 - 12.1.5 immediately cease to advertise the Qualifications and enrol Learners for Qualifications;
 - 12.1.6 provide to BIIAB relevant details of the status of all Learners enrolled for Qualifications; and
 - 12.1.7 take all reasonable steps to protect the interests of Learners, including, but not limited to, by assisting with or securing a transfer to a different Recognised Centre and supporting any valid claims for certification.

Part 3 BIIAB obligations

- 13. BIIAB shall:
 - 13.1 provide such information and guidance to the Centre as may be reasonably requested or required in respect of the Delivery of Qualifications;

- 13.2 provide guidance as to how best to prevent, investigate, and deal with malpractice and maladministration; and
- 13.3 where it has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence may affect the Centre, it shall inform the Centre as soon as reasonably practicable.

Part 4 Terms and Conditions

14. Equality and diversity

- 14.1 The Centre shall undertake the Delivery of the Qualification(s) in accordance with Equalities Law and BIIAB's Equality and Diversity Policy

15. Anti-bribery and anti-corruption

- 15.1 The Centre shall comply with all applicable laws, statutes, and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

16. Data Protection

- 16.1 Both parties will comply with Schedule 3 (Data Protection).

17. Intellectual Property

- 17.1 In consideration for the provision of the services to the Learners under the Centre Agreement, BIIAB hereby grants the Centre for the purpose of providing such services only and for the duration of the Centre Agreement the non-exclusive non-transferable right (with no rights to sub-license) to:

- 17.1.1 designate the Centre as an BIIAB Recognised Centre;
- 17.1.2 use the BIIAB Recognised Centre Logo; and
- 17.1.3 use such other BIIAB Intellectual Property as BIIAB may permit in writing in connection with the Centre Agreement.
- 17.2 The Centre must ensure that all materials (including online materials) using BIIAB Intellectual Property produced by or on behalf of the Centre comply with:
 - 17.2.1 any limitations and/or restrictions on use which may be communicated to the Centre by BIIAB from time to time;
 - 17.2.2 any branding and copy guidelines issued by BIIAB from time to time; and

- 17.2.3 any specific guidance provided by BIIAB.
- 17.3 The Centre acknowledges and agrees that all BIIAB Intellectual Property shall vest in BIIAB and apart from the licence granted pursuant to clause 17.1, this Centre Agreement does not transfer any interest in BIIAB Intellectual Property.
- 17.4 All Intellectual Property Rights developed or created by the Centre (or by the Centre in collaboration with BIIAB) in relation to the Qualifications shall vest in and be owned by BIIAB absolutely. To the extent that the Centre or its representatives are the first owners of any such intellectual property in any works in connection with Qualifications, the Centre hereby assigns all such rights with full title guarantee to BIIAB (and the Centre shall execute all documents and do all other acts as reasonably requested by BIIAB to execute and perfect such assignment and to otherwise evidence BIIAB's absolute ownership of such rights). For the avoidance of doubt, all Intellectual Property Rights in any teaching materials in relation to Qualifications developed independently by the Centre and not derived or based on materials created for or on behalf of BIIAB, shall be owned by the Centre.
- 17.5 The Centre shall promptly give written notice to BIIAB of any actual, threatened or suspected infringement of any BIIAB Intellectual Property of which it becomes aware.
- 17.6 The Centre shall ensure that it does not suggest in any way that it is owned or controlled by BIIAB or that it has been franchised by BIIAB.
- 17.7 The BIIAB Recognised Centre Logo and certificate of registration are the only valid proofs of the Centre's registration by BIIAB.
- 17.8 The Centre will not use, register or attempt to register any mark, design, business name or domain name consisting or comprising or being confusingly similar to any of the BIIAB Intellectual Property, or do or permit to be done any act that may weaken, damage or be otherwise detrimental to the reputation or goodwill associated with BIIAB, or may interfere with or jeopardise the registration and/or validity of BIIAB Intellectual Property.
- 17.9 The Centre will ensure that its public information about the Qualifications is accurate and reliable and that any use it makes of Regulator's logos is consistent with the Regulator's guidance (if applicable).
- 17.10 For the avoidance of doubt a breach of any of the provisions of this clause 17 shall be deemed to constitute a material breach of the Centre Agreement.
18. **Database of Learners**

18.1 BIIAB acknowledges and agrees that, as between the Centre and BIIAB, the Centre owns all the data in the database of Learners created by the Centre ("**Database of Learners**") and that all Intellectual Property Rights in the Database of Learners are the property of the Centre.

18.2 The Centre grants to BIIAB a non-exclusive and perpetual licence to use the Database of Learners and the data contained therein in connection with the Centre Agreement and BIIAB's role as an Awarding Organisation. This licence shall survive termination of the Centre Agreement for any reason.

19. **Confidentiality**

19.1 The Centre shall:

19.1.1 treat all confidential information as strictly private and confidential and take all reasonable steps to preserve its confidentiality and to ensure that the Centre's Workforce preserve its confidentiality;

19.1.2 report any suspected breaches of confidentiality to BIIAB as soon as reasonably practicable; and

19.1.3 co-operate with any investigations into such suspected breaches by BIIAB.

19.2 The obligations in clause 19.1.1 shall survive the termination of the Centre Agreement until such time as the Centre no longer holds any confidential information which has been provided to the Centre by BIIAB or its agents in connection with the Centre Agreement.

19.3 "Confidential Information" in the Centre Agreement means any information which has been designated as confidential by BIIAB in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or BIIAB Intellectual Property and all personal data and special category data within the meaning of the Data Privacy Laws provided that, Confidential Information shall not include information which:

19.3.1 was public knowledge at the time of disclosure;

19.3.2 was in the possession of the Centre, without restriction as to its disclosure, before receiving it from BIIAB;

19.3.3 is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or

19.3.4 is independently developed without access to the Confidential Information.

20. **Retention of records**

20.1 The Centre shall:

20.1.1 maintain all Learner records and details of achievement in an accurate, timely and secure manner, and in accordance with any applicable BIIAB Policies and Procedures, and in the format required by BIIAB;

20.1.2 keep complete and accurate records for the duration of the Centre Agreement and for 24 months from its termination, or for three years from award of a Qualification to a Learner, whichever is longer, relating to the Centre's compliance with its obligations under the Centre Agreement and BIIAB requirements for Record Keeping and make these available to BIIAB (at its own cost) upon request, including, but not limited to, assessment and internal quality assurance records.

21. **Fees and payments**

21.1 Centre shall pay any fees that may be payable in connection with the Centre Agreement, as notified to the Centre by BIIAB upon Approval and thereafter.

21.2 Unless otherwise stated, all fees notified to the Centre by BIIAB are exclusive of VAT and/or any equivalent sales Tax.

21.3 The Centre shall make payment of all valid invoices presented by BIIAB in accordance with the BIIAB Policies and Procedures on invoicing and payment, and not later than within 30 days of the date of the invoice ("**Payment Date**"), or such other date as may be agreed by BIIAB in writing.

21.4 The Centre shall make all payments under the Centre Agreement without withholding or deduction of, or in respect of, any Tax unless required by law. If any such withholding or deduction is required, the Centre shall pay to BIIAB such additional amount as will ensure that BIIAB receives the same total amount that it would have received if no such withholding or deduction had been required.

21.5 BIIAB reserves the right, at any time and without notice to the Centre, to set off any liability of the Centre to BIIAB against any liability of BIIAB to the Centre, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Centre Agreement.

21.6 Any fees payable by the Centre to BIIAB are, unless otherwise stated, non-refundable.

21.7 If any amount remains unpaid after the Payment Date BIIAB reserves the right to charge statutory interest on any outstanding fees. Interest under this clause

will accrue each day at 8% a year above the Bank of England's base rate in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

21.8 Without prejudice to BIIAB's other rights and remedies, failure to pay any fees due may result in a sanction being imposed by BIIAB under the Sanctions Policy, suspension or withdrawal of Approval and/or termination of the Centre Agreement under clause 24.

21.9 For the avoidance of doubt, the provisions of this clause 21 shall apply to all fees and/or any other amounts that may be payable by the Centre to BIIAB in connection with the Centre Agreement, whether or not the Centre has relied on any grant, government funding or any other third party funding at any point prior to or during the term of this Centre Agreement, and any such fees and/or other amounts shall be payable in accordance with the provisions of the Centre Agreement whether or not any such grant or funding is continuing. The Centre will be responsible for all costs and expenses incurred by it or persons acting on its behalf in connection with this Centre Agreement.

22. **Limitation of liability**

22.1 Nothing in the Centre Agreement shall limit or exclude any liability by either Party for death or personal injury caused by its negligence, or the negligence of its Workforce, agents or sub-contractors, fraud or fraudulent misrepresentation or any other liability that cannot be excluded or limited under English law.

22.2 Subject to clause 22.1:

22.2.1 BIIAB shall have no liability to the Centre, whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with the Centre Agreement for: (i) loss of profits; (ii) loss of sales or business; (iii) loss of anticipated savings; (iv) loss of or damage to goodwill or reputation; (v) loss of use or corruption of data or information; (vi) any ex gratia payments; or (vii) any special, indirect, consequential or pure economic loss; and

22.2.2 BIIAB's liability for any claim or series of connected claims whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with the Centre Agreement shall be limited to a maximum sum equal to the total fees paid by the Centre under the Centre Agreement within the period of twelve (12) months preceding the event giving rise to the claim (or the first of the series of connected claims).

23. **Indemnity**

23.1 The Centre agrees to indemnify BIIAB on demand against all losses, costs, claims and expenses (including but not limited to any direct, indirect or consequential

losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) incurred by BIIAB, or its Workforce directly, or indirectly, arising from, or in connection with:

- 23.1.1 claims made by the Centre or any of its employees or other persons acting on its behalf for any employment-related payment or remuneration;
- 23.1.2 alleged and/or actual infringement or theft of any confidential information or intellectual property by the Centre's Workforce or other persons engaged in the Delivery of Qualifications or acting on the Centre's behalf;
- 23.1.3 the investigation of any instances of suspected malpractice, fraud or financial irregularities in relation to the Delivery, assessment and certification of Qualifications within the Centre and any actions required by BIIAB;
- 23.1.4 a failure by the Centre or its Workforce or any other person or organisation employed, engaged, and/or howsoever connected to the Centre to comply with any provision of the Centre Agreement;
- 23.1.5 any claim made against BIIAB by any third party to the extent that such claim arises as a result of the Centre's breach, negligent performance or failure or delay in performing any of its obligations under the Centre Agreement; and/or
- 23.1.6 any act or omission by the Centre (including, but not limited to, a breach of the Centre Agreement), or its Workforce or sub-contractors, which places BIIAB in breach of any obligation as an Awarding Organisation/Body.
- 23.2 For the duration of the Centre Agreement and for two years thereafter, the Centre will maintain full and comprehensive insurance at a level sufficient to cover any potential risks arising from the Centre's operations in connection with the Centre Agreement. Upon request, the Centre shall provide to BIIAB evidence of the validity of the insurance held in accordance with this clause 23.2.

24. **Termination**

- 24.1 Either Party may terminate the Centre Agreement (and therefore the Approval) for any reason by providing not less than one (1) months written notice to the other Party.
- 24.2 Without prejudice to any of its rights or remedies, BIIAB may terminate the Centre Agreement immediately on written notice if:
 - 24.2.1 the Centre does not comply with BIIAB Policies and Procedures including those under the Sanctions Policy resulting in the withdrawal of Approval;

- 24.2.2 the Centre is in material or persistent breach of the Centre Agreement, including failure to pay any amount due by the due date, and if the breach is capable of remedy has failed to remedy it within the period stipulated by BIIAB;
- 24.2.3 the Centre is the subject of an Insolvency Event;
- 24.2.4 BIIAB reasonably believes that the Centre's conduct is prejudicial to BIIAB's interests (including, but not limited to, in the case of the Centre's breach of any security requirements, malpractice or maladministration in the Delivery and assessment of Qualifications), or is not consistent with its brand values, guidelines and/or reputation, or may bring members or organisations within academia, education or the arts into disrepute;
- 24.2.5 the Centre undergoes a Change of Control and such change may, in the reasonable opinion of BIIAB, affect the Centre's ability to comply with its obligations under the Centre Agreement, is inconsistent with BIIAB's values and/or reputation, and/or creates, or is likely to create, a conflict of interest; in the event of any breach of Schedule 3 (Data Protection) by the Centre;
- 24.2.6 the Centre is unable to offer and/or deliver the Qualifications as a result of a change in laws, or as a result of loss of a licence or permit necessary to deliver the Qualifications; or
- 24.2.7 the Centre is subject to a sanction placed on it by another Awarding Organisation, resulting in the withdrawal of its recognition with that Awarding Organisation.
- 24.3 Without prejudice to any of its rights or remedies, BIIAB may terminate the Centre Agreement immediately on written notice if BIIAB loses its status as an Awarding Organisation/Body in respect of all Qualifications.
- 24.4 BIIAB reserves the right to suspend or restrict the Approval with immediate effect:
- 24.4.1 during the period given to the Centre to remedy a breach under clause 24.3; and/or
- 24.4.2 while it is investigating the Centre's conduct under any of the provisions of the Centre Agreement.
- 24.5 BIIAB reserves the right to terminate this Centre Agreement without notice where the Centre has retained the status of 'inactive' for a period of two years.
25. **Consequences of suspension or termination**
- 25.1 Upon termination of the Centre Agreement (howsoever caused) or suspension, withdrawal or expiry of the Approval (in full or in part):

- 25.1.1 clause 12 (Withdrawal) will apply;
- 25.1.2 all outstanding sums payable under the Centre Agreement shall immediately become due and payable;
- 25.1.3 the Centre shall cease to use any of BIIAB's property, the BIIAB Intellectual Property and all of the materials produced by or on behalf of the Centre using such BIIAB Intellectual Property (and destroy or return any of these at BIIAB's request).
- 25.2 On termination of the Centre Agreement for any reason, the Approval will cease, however, each Party's accrued rights and liabilities as at the date of termination, clause 9 (Security), clause 12 (Withdrawal), clause 17 (Intellectual Property), clause 20 (Retention of records), clause 18 (Database of Learners), clause 19 (Confidentiality), clause 21 (Fees and payments), clause 22 (Limitation of liability and indemnity), clause 25 (Consequences of suspension or termination), and clause 27.14 (Governing Law and Jurisdiction) will survive and continue in full force and effect.
- 26. **Subcontracting and appointing agents**
 - 26.1 The Centre may not assign, transfer, charge, sub-contract, or otherwise dispose of or delegate (including, but not limited to, appointing an agent) any of its rights, benefits or obligations arising out of the Centre Agreement to any other third party without BIIAB's prior written consent (including operating a Satellite Site). In the case of a Satellite Site, the Recognised Centre will provide BIIAB with notice specifying:
 - 26.1.1 whether the location is a Satellite Site;
 - 26.1.2 how the Recognised Centre will monitor and quality assure the Satellite Site;
 - 26.1.3 the address of the Satellite Site; and
 - 26.1.4 the reasons the Recognised Centre wishes to use the Satellite Site.
 - 26.2 Where BIIAB has given written consent under clause 26.1, the Centre will be responsible for ensuring that the third party has appropriate capacity and capability to ensure the provision of the services under the Centre Agreement at all times and will agree in writing to any requirements BIIAB may have in providing its consent under clause 26.1. The Centre shall remain liable at all times to BIIAB for the acts, errors or omissions of any such third party.
 - 26.3 The Centre shall ensure that any such third party appointed by the Centre under this clause 26 to provide any services:

- 26.4 complies with all aspects of the Centre Agreement and it is subject to legally binding terms not less onerous than the terms of the Centre Agreement; and
- 26.5 clearly discloses its status and relationship with the Centre in any communication with Learners and/or other Users in connection with Qualifications.
- 26.6 For the avoidance of doubt, where BIIAB has given written consent under clause 26.1, such consent does not extend to the right of the Centre to sub-license any of its rights in respect of BIIAB Intellectual Property (including in respect of the BIIAB Recognised Centre Logo). Any use of BIIAB Recognised Centre Logo and/or other BIIAB Intellectual Property, and any other activity that could reasonably associate such third party with BIIAB is not allowed.
- 26.7 BIIAB may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under the Centre Agreement.
27. **General**
- 27.1 **Variation:** BIIAB may from time to time amend or vary the terms of this Centre Agreement upon written notice to the Centre, when such amendment or variation becomes necessary or desirable to comply with the Regulatory Requirements or for reasons related to BIIAB's business. Any variation or amendment of this Centre Agreement shall take effect from the date specified in the notice of variation or amendment.
- 27.2 **Variation of BIIAB Policies and Procedures:** For the avoidance of doubt, BIIAB may at any time amend or vary any or all of the BIIAB Policies and Procedures by publishing the amended or varied version(s) on the Website or otherwise making it available to the Centre. Any such variation or amendment takes effect from the date of such publication or notification.
- 27.3 **Severance:** The invalidity, illegality or unenforceability of any term, part-term of or any right arising pursuant to the Centre Agreement will not affect the validity, legality or enforceability of its remaining terms. If any term or part-term is found unenforceable or invalid, insofar and to the extent permissible by law, the Parties will negotiate in good faith to amend such term such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, it achieves the Parties' original commercial intention. If such modification is not possible, the relevant term or part-term shall be deemed deleted.
- 27.4 **Force Majeure:** Neither Party will be in breach of the Centre Agreement nor liable for a delay or failure in performance resulting from events, circumstances or causes beyond its reasonable control. In such circumstances the affected Party will be entitled to a reasonable extension of the time allocated for performing its obligations. If the period of delay or non-performance continues for thirty (30)

days from the date of occurrence, the Party not affected may terminate the Centre Agreement by giving fourteen (14) days' written notice to the other Party.

- 27.5 **Remedies:** Without prejudice to any other rights or remedies that BIIAB may have, the Centre acknowledges and agrees that damages alone may not be an adequate remedy for breach of the terms of the Centre Agreement and that BIIAB shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach by the Centre of any of the terms of the Centre Agreement.
- 27.6 **Notices:** Any notice under or in connection with the Centre Agreement must be in writing and correctly addressed. Notices/communications may be given by either Party by pre-paid first-class post or other next Business Day delivery service (to the main business address for both Parties) or by email, in the case of the Centre to the authorised person whose email address is stated in the Application for Centre Recognition (or otherwise notified to BIIAB), and in the case of BIIAB, to that of the BIIAB representative whose email address will be specified in any Approval confirmation notice. A notice will be deemed received three (3) days after posting if sent by first-class post or other next Business Day delivery service and at 5pm on the day of sending if sent by email, provided that any notice received on a weekend or public holiday or after 5 pm (local time at the place of receipt) will be deemed to be received on the next Business Day. This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any other method of dispute resolution.
- 27.7 **Rights of Third Parties:** A person who is not a Party to the Centre Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any of the terms and conditions in the Centre Agreement.
- 27.8 **No Partnership or Agency:** Nothing in the Centre Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
- 27.9 **Waiver:** A waiver of any right or remedy under the Centre Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 27.10 **Entire Agreement:** The Centre Agreement constitutes the entire agreement between the Parties. Each party acknowledges that in entering into the Centre

Agreement it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Centre Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Centre Agreement.

- 27.11 **Dispute Resolution Procedure:** If a dispute arises out of or in connection with the Centre Agreement or the performance, validity or enforceability of it (the "**Dispute**") then except as expressly provided in these Terms, the Parties shall follow the procedure set out in this clause:
- 27.11.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (the "**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, senior officers of each Party (with authority to represent and bind the Party to any settlement agreed between the Parties) shall attempt in good faith to resolve the Dispute;
- 27.11.2 If the persons mentioned above are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by Centre for Effective Dispute Resolution ("**CEDR**"). To initiate the mediation, a Party must serve notice in writing (the "**ADR notice**") to the other Party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than 30 days after the date of the ADR notice.
- 27.12 If for any reason the Dispute is not resolved within 30 days of commencement of the mediation, the Dispute shall be referred to and finally resolved by the courts of England and Wales in accordance with clause 27.13 (Jurisdiction).
- 27.13 **Jurisdiction:** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Centre Agreement or its subject matter or formation.
- 27.14 **Governing law:** Each Party agrees that the Centre Agreement and the relationship between the Centre and BIIAB will be governed by and construed in accordance with the law of England and Wales.

This Centre Agreement has been entered into on the date signed below by the Centre Representative.

Schedule 1

BIIAB POLICIES AND PROCEDURES

This Centre Agreement is supported by the following policies, procedures and guidance which can be accessed via the BIIAB websites. They are subject to annual review and amendment, therefore Centres are advised they keep up to date and have a full understanding of the current requirements in each.

1. Access to Assessment Policy
2. Application for Reasonable Adjustments
3. Application for Special Consideration
4. Branding Guidelines
5. Centre Health and Safety
6. Centre Recognition Policy
7. Centre Record Keeping
8. Claiming Certification Policy and Process
9. Complaints Policy and Process
10. Copyright policy
11. Delivering and assessing qualifications
12. Despatch of assessment evidence
13. Enquiries and appeals policy and process
14. Equality and Diversity Policy
15. External Assessment Policy and Process
16. External Moderation Policy and Process
17. Instruction for the Conduct of Examinations and Other External Assessment
18. Internal Quality Assurance of Qualifications
19. Invoicing Policy

20. Learner Enrolment Policy and Process
21. Malpractice and Maladministration Policy and Process
22. Privacy (Fair Processing) Policy
23. Qualification Approval Policy
24. Recognition of Prior Learning Policy and Process
25. Safeguarding policy
26. Sanctions policy and process
27. Standardisation and Benchmarking Policy

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Schedule 2

DEFINITIONS

“Adverse Effect”	means an adverse effect as defined in the applicable General Conditions of Recognition including an act, omission, event, incident, or circumstance which: (a) gives rise to prejudice to Learners or potential Learners; or (b) adversely affects: (i) the ability of BIIAB to undertake the development, delivery or award of qualifications in accordance with its Regulatory Requirements; (ii) the standards of qualifications which BIIAB makes available or proposes to make available; or (iii) public confidence in such qualifications. ¹
“Application for Centre Recognition”	means an application submitted to BIIAB for the purpose of obtaining Recognition, in the form prescribed by BIIAB from time to time.
“Application for Qualification Approval”	means an application submitted to BIIAB in conjunction with (or as part of) the Application for Centre Recognition, or at any time after Recognition, to request Approval and/or to add further Qualifications to the existing Approval, in the form prescribed by BIIAB from time to time.
“Approval”	means approval granted by BIIAB in respect of Delivery of Qualifications by the Centre, and “Approved” shall be construed accordingly.
“Awarding Organisation / Body”	means an organisation recognised by a Regulator in respect of award of regulated qualifications.
“Business Day”	means a day other than a Saturday, Sunday or public holiday in the UK.

¹ Regulatory definition

“Change of Control”	means the change of the person who determines the affairs of the Centre, either by means of majority shareholding, voting power or the terms of any constitution or contract.
“Commencement Date”	means the date when this Agreement is signed by both Parties
“Centre Agreement”	means the legally binding agreement between BIIAB and the Centre for the Recognition and Approval on the terms set out in this Agreement, the Application for Centre Recognition, any Criteria, any Application for Qualification Approval and the BIIAB Policies and Procedures.
“Criteria”	means any specific requirements that may be imposed by BIIAB as part of Recognition and/or Approval, as notified to the Centre in writing upon Recognition and/or Approval, and/or at any time thereafter.
“Conditions of Recognition”	means any or all, as the context may require, of the following: General Conditions of Recognition published by the Regulators from time to time.
“Delivery”	means the delivery of teaching and learning, assessment and internal quality assurance
“Equalities Law”	means the Equality Act 2010 and any Act that was statutory predecessor to that Act, or any legislation in jurisdiction other than England which has an equivalent purpose and effect

“Insolvency Event”

means in relation to the party in question, either it or its parent company: (a) is unable to pay its debts or becomes insolvent or bankrupt; (b) is the subject of an order made or a resolution passed for its administration, winding-up or dissolution; (c) is subject to any proceedings for the appointment of an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer over all or any substantial part of its assets; (d) proposes or enters into any composition or arrangement with its creditors generally (except for the purposes of a bona fide solvent amalgamation, reconstruction or re-organisation (provided this does not materially reduce its assets)); (e) its financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Centre Agreement is in jeopardy; (f) applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986 or (g) is subject to an analogous event to any of the foregoing in any jurisdiction.

“Intellectual Property Rights”

any and all intellectual property rights of any nature anywhere in the world whether registered, registrable or otherwise, including but not limited to patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of websites.

“Key Personnel”

means any or all, as the context may require, of the following: Main Examinations Officer, Head of Finance, Head of Curriculum, Quality Assurance Manager; Principal/Head of Centre, and/or any other person/role named on the Application for Centre Recognition.

“Learner”	means a person who is registered to take an BIIAB Qualification and to be assessed as part of that Qualification.
“Qualification(s)”	means the qualifications regulated by the Regulator (including any units of qualifications) which the Centre is Approved to deliver under the terms of the Centre Agreement.
“Recognised Centre(s)”	means an organisation that has been recognised by BIIAB as suitable to deliver BIIAB qualifications.
“Recognition”	means the confirmation by BIIAB that an organisation is considered by BIIAB as suitable, subject to Approval, to deliver BIIAB qualifications.
“Regulator(s)”	means the qualifications regulators in England (the Office of Qualifications and Examinations Regulation (Ofqual)), and includes any successor to this body.
“Regulatory Requirements”	means any conditions to which BIIAB is subject as an Awarding Organisation/Body, including the Conditions of Recognition and any other (general or specific) conditions imposed by any Regulator on BIIAB from time to time, as notified by BIIAB from time to time.
“Sanctions Policy”	means the BIIAB sanctions policy from time to time forming part of the BIIAB Policies and Procedures and setting out the rules, procedures and sanctions that may be applied by BIIAB in the event of a failure by the Centre to comply with the provisions of the Centre Agreement.
“Satellite Site”	means part of the Recognised Centre which operates from a location separate from the primary Recognised Centre and at which Delivery and/or assessment of qualifications is undertaken.

“BIIAB Intellectual Property”

any and all intellectual property rights of BIIAB of any nature anywhere in the world whether registered, registrable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the “look and feel” of any websites.

“BIIAB’s Policies and Procedures”

means the policies and procedures applicable to the Recognised Centres published on the Website or otherwise made available to the Recognised Centres, as listed in Schedule 1, and as amended, supplemented and updated from time to time.

“BIIAB Recognised Centre Logo”

means a logo designated by BIIAB from time to time for use by the Recognised Centres in connection with the Delivery of BIIAB qualifications.

“Systems”

means any other website and/or Systems of BIIAB addressed to the Recognised Centres.

“Tax”

means any tax, levy, impost, duty or other charge or fee of a similar nature.

“Users”

means persons who have a legitimate interest in Qualifications which may include Learners and Learners’ representatives, prospective Learners, other centres, teachers, assessors employers and employers’ representatives, further and higher education establishments, schools, government departments and agencies, and professional bodies.

“VAT”

means value added tax or any equivalent tax chargeable.

“Workforce”

includes all staff, employees, agents, consultants, contractors or otherwise.

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Schedule 3

DATA PROCESSING

In this Schedule 3

- (a) the term "**Data Privacy Laws**" shall mean any applicable law relating to the processing, privacy and use of personal data, as applicable to either party or the services under the Centre Agreement, including the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018, the Directive 95/46/EC (Data Protection Directive) and/or the UK Data Protection Act 2018 or the General Data Protection Regulation (EU) 2016/679 (GDPR); and any laws which implement any such laws; and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; all guidance, guidelines, codes of practice and codes of conduct issued by any relevant regulator, authority or body responsible for administering Data Privacy Laws (in each case whether or not legally binding).
 - (b) the term "**Data Security Breach**" shall mean a breach of security leading to the accidental or unlawful destruction, corruption, loss, alteration, unauthorised disclosure of, or unauthorised access, attempted access (physical or otherwise) or access to, personal data transmitted, stored or otherwise processed;
 - (c) the terms "**controller**", "**processor**", "**personal data**", "**processing**" and "**special categories of personal data**" shall have the meanings as defined in the Data Privacy Laws.
- 27.15 The Parties acknowledge and agree that for the purposes of the Data Privacy Laws, the Parties are independent controllers in respect of any personal data relating to the Learners and exchanged between the Parties pursuant to the Centre Agreement ("**Learner Personal Data**").
- 27.16 Each Party shall ensure that it complies with its obligations under the Data Privacy Laws at all times during the term of the Centre Agreement. In addition, the Centre shall comply with any laws in relation to data privacy and security applicable in the Territory.
- 27.17 In the event a transfer of any Learner Personal Data from BIIAB to the Centre becomes necessary in connection with the Centre Agreement and such transfer would result in the transfer of the Learner Personal Data (i) outside of the UK and EEA and (ii) where the recipient is not based in a country subject to adequacy regulations under the Data Privacy Laws, the Centre hereby agrees to, promptly upon written request from the BIIAB, enter into a data transfer agreement with

- BIIAB, in a form reasonably prescribed by BIIAB which satisfies the requirements of the Data Privacy Laws.
- 27.18 Upon BIIAB's request, the Centre shall obtain on behalf of BIIAB, appropriate consents from the Learners and/or potential Learners, as BIIAB may require in order to process and control Learner Personal Data under the Data Privacy Laws in a form prescribed by BIIAB from time to time.
- 27.19 The Centre shall, in respect of any Learner Personal Data, ensure that:
- (a) the Centre's privacy notices/policies/statements are clear and provide sufficient information to the Learners and/or potential Learners for them to understand which of their Learner Personal Data will be shared by the Centre with BIIAB, the purpose of sharing their Learner Personal Data with BIIAB and the identity of BIIAB as the awarding organisation;
 - (b) the Centre's privacy notices/policies/statements shall provide a link to BIIAB's privacy notice/policy/statement; and
 - (c) such Learner Personal Data supplied by the Centre to BIIAB is accurate and kept up-to-date at all times.
- 27.20 Each Party agrees to provide to the other Party with such reasonable cooperation and assistance as is necessary to enable each Party to comply with its obligations as a controller in respect of Learner Personal Data, including to enable each Party to comply with the Learners' and/or potential Learners' rights in respect of their Learner Personal Data and to respond to any other queries or complaints from the Learners and/or potential Learners in connection with the processing of Learner Personal Data or any other matter.
- 27.21 Each Party agrees that it shall have in place its own policies that must be followed in the event of a Data Security Breach, taking into account the applicable Data Privacy Laws and any associated guidance.
- 27.22 If the Centre experiences a Data Security Breach, the Centre will notify BIIAB of the Data Security Breach within 24 hours of becoming aware of such breach and provide BIIAB with:
- (a) a primary point of contact who will manage the Data Security Breach and any subsequent remedial or regulatory actions;
 - (b) a description of the nature of the Data Security Breach, and the approximate number of Learners affected;

- (c) a description of the types of Learner Personal Data which were subject to the Data Security Breach; and
- (d) a description of the measures taken or proposed to be taken to address the Data Security Breach including measures to mitigate its possible adverse effects.

27.23 Each Party agrees to provide to the other reasonable assistance as is necessary to facilitate the handling and resolution of any Data Security Breach in an expeditious manner and a manner that complies with the Data Privacy Laws.

27.24 The Centre must comply with all of BIIAB’s security requirements published by BIIAB from time to time as part of the BIIAB’s Policies and Procedures, including those concerning the storage of any Learner Personal Data (and, in particular, the storage of any examination papers and the verification of Learners’ identity). The Centre shall notify BIIAB as soon as reasonably practicable of any incident or risk of any incident which would result in BIIAB’s non-compliance with the Data Privacy Laws and take all reasonable steps to prevent any such risk or incident occurring or, where it cannot be prevented, to reduce the impact of any such incident.

27.25 The Centre shall not take any action or make any omission which would result in BIIAB breaching the Data Privacy Laws or bring it into disrepute for reasons related to data privacy.

Signed

for and on behalf of

BIIAB Qualifications Limited



Acting CEO: Scott Forbes

Name of authorised representative

Role / Job Title

Signature

for and on behalf of **[Centre Name]**

Change History Record

Version	Description of change	Approval	Date of Issue
1.0	New Centre Agreement	DCEO	22 February 2024
1.1	CEO signature updated	ACEO	10 th October 2024

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