

# Centre Agreement Terms and Conditions

This Agreement is made between: Gateway Qualifications Ltd, a private company limited by guarantee registered in England with a registration number 05502449 with registered office at Gateway House, 6 Tollgate Business Park, Colchester, CO3 8AB, known as Gateway Qualifications, and “the Recognised Centre”.

These terms and conditions (“**Terms**”) set out the terms of a Recognised Centre Agreement between Gateway Qualifications and a Recognised Centre.

[BY CLICKING ON THE “ACCEPT” BUTTON YOU AGREE TO THESE TERMS, WHICH WILL BIND YOUR ORGANISATION.]

IF YOU DO NOT AGREE TO THESE TERMS, GATEWAY QUALIFICATIONS WILL NOT GRANT RECOGNITION TO YOUR ORGANISATION AND NO RECOGNISED CENTRE AGREEMENT WILL COME INTO EXISTENCE. IN THIS CASE YOUR ORGANISATION MAY NOT OFFER ANY QUALIFICATIONS TO ANY LEARNERS AND MAY NOT REPRESENT ITSELF AS A RECOGNISED CENTRE OF GATEWAY QUALIFICATIONS.

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

## 1. Definitions and interpretation

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1.1 The definitions and rules of interpretation in this clause 1 apply in the Recognised Centre Agreement:

**“Access Validating Agency”** means an organisation that is licensed by the Quality Assurance Agency for Higher Education (**QAA**) in connection with the award of Access to HE Diplomas.

**“Adverse Effect”** means an adverse effect as defined in Ofqual and Qualifications Wales General Conditions of Recognition, to apply equally to Access to Higher Education qualifications for the purposes of the Recognised Centre Agreement, 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 Gateway Qualifications to undertake the development, Delivery or award of qualifications in accordance with its Regulatory Requirements;
- (ii) the standards of qualifications which Gateway Qualifications makes available or proposes to make available; or

(iii) public confidence in such qualifications.

<b>“Awarding Organisation”</b>	means an organisation recognised by a Regulator in respect of award of qualifications.
<b>“Blended Delivery”</b>	means where Delivery is conducted using a combination of classroom and online resources.
<b>“Business Day”</b>	means a day other than a Saturday, Sunday or public holiday in England when banks in Colchester are open for business.
<b>“CASS”</b>	means Centre Assessment Standards Scrutiny i.e. the process through which Gateway Qualifications: (1) periodically scrutinises the marking of assessments by a Recognised Centre to ensure that it has not deviated from required standards; (2) considers whether it is appropriate to correct any mark and, if appropriate, corrects that mark (including where changes are required under Condition H2.5(b); (3) in line with Condition H6.3(b) considers whether it is appropriate to correct any incorrect result and, if appropriate, corrects that result; and (4) takes action to prevent such deviation from recurring.
<b>“Centre Recognition Application”</b>	means an application form submitted to Gateway Qualifications by an organisation for the purpose of obtaining Recognition, in the form prescribed by Gateway Qualifications from time to time.
<b>“Change of Control”</b>	means the change of the legal person who determines the affairs of the Recognised Centre, either by means of majority shareholding, voting power or the terms of any constitution.
<b>“Classroom Learning”</b>	means where learning and assessment are delivered in person using classroom resources.
<b>“Commencement Date”</b>	means the date when a Recognised Centre Agreement comes into existence between the Parties, as determined in accordance with clause 2.1.
<b>“Confidential Information”</b>	has the meaning given in clause 19.3.
<b>“Delivery”</b>	means the delivery of those activities that constitute the learning, assessment, administration, management and support of Learners under the Recognised Centre Agreement.
<b>“Gateway Qualifications”</b>	means Gateway Qualifications Limited, a company registered in England and Wales (company number 05502449), and a charity registered in England (charity number 1114282), whose registered office address is at

Gateway House 3 Tollgate Business Park, Tollgate West,  
Colchester, CO3 8AB.

<b>“Gateway Qualifications Intellectual Property”</b>	any and all intellectual property rights of Gateway Qualifications 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 any of its websites.
<b>“Gateway Qualifications’ Policies and Procedures”</b>	means the policies and procedures applicable to Recognised Centres published on the Website and listed in Schedule 1, as amended and updated from time to time.
<b>“Gateway Qualifications Recognised Centre Logo”</b>	means any logo designated by Gateway Qualifications for use by Recognised Centres in connection with the Qualifications from time to time.
<b>“Learner”</b>	means a person who is registered to take a Qualification and to be assessed as part of that Qualification.
<b>“Mode of Delivery”</b>	means where Delivery is conducted using, under the Recognised Centre Agreement, different modes e.g. Blended Delivery, Classroom Delivery, or Online Delivery.
<b>“Online Delivery”</b>	means where Delivery is conducted using a computer and/or other remote digital or telephonic methods of communication (including smart phones and Apps).
<b>“Qualification(s)”</b>	means the qualifications (including any units of qualifications) which the Recognised Centre is Recognised to deliver.
<b>“Partnering”</b>	means where the Recognised Centre collaborates with and puts in place arrangements with a third party for the Delivery of all or part of a Qualification, or Qualifications.
<b>“Party”</b>	means Gateway Qualifications or the organisation named on the Centre Recognition Application as the entity applying for Recognition, and <b>“Parties”</b> shall be construed accordingly.
<b>“Recognised Centre”</b>	means the organisation that downloads and accepts this agreement Recognised by Gateway Qualifications to deliver

Qualifications (and other related activities) to Learners in accordance with these Terms, and “**Recognised Centres**” shall be construed accordingly.

<b>“Recognised Centre Agreement”</b>	means this agreement between Gateway Qualifications and a Recognised Centre for the Recognition and delivery of Qualifications on the terms set out in these Terms, the Centre Recognition Application and Gateway Qualifications Policies and Procedures.
<b>“Recognition”</b>	means approval granted by Gateway Qualifications in respect of Delivery of Qualifications, and “ <b>Recognised</b> ” shall be construed accordingly.
<b>“Regulator(s)”</b>	those government departments and regulatory, statutory and other entities, committees and bodies which (whether under statute, rules, regulations, codes of practice or otherwise) are entitled to regulate, investigate, or influence the matters dealt with in this agreement or any other affairs of a party, including (for the avoidance of doubt) the Office of Qualifications and Examinations Regulation ( <b>Ofqual</b> ) and Qualifications Wales and, in respect of the Access to HE Diplomas, the QAA, and any successors to those bodies.
<b>“Regulatory Requirements”</b>	means any conditions to which Gateway Qualifications is subject as an Awarding Organisation, including the General Conditions of Recognition published from time to time by Ofqual, the Criterial for the Licensing of Access Validating Agencies published by the QAA from time to time (in respect of Access to Higher Education qualifications), and any general or specific conditions imposed by any Regulator on Gateway Qualifications from time to time.
<b>“Sanctions Policy”</b>	means the Gateway Qualifications sanctions policy from time to time forming part of the Gateway Qualifications Policies and Procedures and setting out the rules, procedures and sanctions that may be applied by Gateway Qualifications in the event of a failure by the Recognised Centre to comply with the requirements set out in Part 2 of these Terms.
<b>“Satellite Site”</b>	means part of the Recognised Centre which operates from a location separate from the primary Recognised Centre and at which Delivery and assessment of qualifications is undertaken.
<b>“Territory”</b>	means the geographical area(s) where the Recognised Centre is Recognised to deliver the Qualifications, as set out in the Recognition confirmation notice issued by Gateway Qualifications.

<b>“Users”</b>	means persons who have a legitimate interest in Qualifications which may include Learners and Learners’ representatives, other Recognised Centres, teachers, employers and employers’ representatives, further and higher education establishments, schools, government departments and agencies, and professional bodies.
<b>“Website”</b>	means <a href="http://www.gatewayqualifications.org.uk">www.gatewayqualifications.org.uk</a> , or any other website of Gateway Qualifications addressed to Recognised Centres.
<b>“Workforce”</b>	means persons available for work (including employees, workers and contractors).
<b>“Venue”</b>	means a location at which the Recognised Centre Delivers the Qualifications and any assessments of the Qualifications, and which is not part of the Recognised Centre.

- 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 Recognised Centre Agreement shall be binding on, and ensure to the benefit of, the Parties to the Recognised 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 Schedule forms part of the Recognised Centre Agreement and shall have effect as if set out in full in the body of the Recognised Centre Agreement. Any reference to the Recognised Centre Agreement includes the Schedule.

## PART 1 RECOGNISED CENTRE AGREEMENT

### 2. Agreement

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- 2.1 A Centre Recognition Application shall be treated as an offer by an organisation to enter into a Recognised Centre Agreement with Gateway Qualifications, but shall not be binding on Gateway Qualifications until Recognition is granted to such organisation and notified by Gateway Qualifications, at which point a Recognised Centre Agreement shall come into effect and become binding and enforceable on both Parties.
- 2.2 Upon receipt of Recognition, confirmed in writing by Gateway Qualifications in a Recognition notice, a Recognised Centre shall be entitled to deliver Qualifications in the Territory on the terms of, and subject to, the terms of the Recognised Centre Agreement.
- 2.3 These Terms, together with the Centre Recognition Application and the Gateway Qualifications Policies and Procedures constitute the terms of the Recognised Centre Agreement to the exclusion of any other terms that the Recognised Centre seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 2.4 If there is any inconsistency between the provisions of these Terms and the Centre Recognition Application and/or any of the Gateway Qualifications Policies and Procedures, the provisions of these Terms shall prevail. If there is any inconsistency between the provisions of the Centre Recognition Application and the Gateway Qualifications Policies and Procedures, the provisions of the Gateway Qualifications Policies and Procedures shall prevail.
- 2.5 The Recognised Centre waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Recognised Centre that is inconsistent with the Recognised Centre Agreement.

## PART 2 CENTRE REQUIREMENTS AND OBLIGATIONS

### 3. General

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- 3.1 The Recognised Centre shall at all times:
- 3.1.1 use its best endeavours to protect the interest of Learners in connection with the Delivery of Qualifications;
  - 3.1.2 take all reasonable steps to ensure that Gateway Qualifications is able to comply with the applicable Regulatory Requirements;
  - 3.1.3 comply with all laws and regulations applicable to its activities under the Recognised Centre Agreement;
  - 3.1.4 promptly comply with requests for information or documents made by Gateway Qualifications or the Regulator(s);
  - 3.1.5 provide assistance, on request, to Gateway Qualifications in carrying out any of its monitoring activities and co-operate with Gateway Qualifications in all matters related to the Delivery of Qualifications;
  - 3.1.6 assist the Regulator(s) and any other relevant regulatory bodies in any investigations made for the purposes of performing regulatory functions; and
  - 3.1.7 comply with all directions and/or sanctions imposed by Gateway Qualifications in accordance with the Recognised Centre Agreement.
- 3.2 The Recognised Centre warrants to Gateway Qualifications on a continuing basis that it has complied with and shall comply with all laws and regulations affecting the Delivery of Qualifications in the Territory for the duration of the Recognised Centre Agreement. The Recognised Centre shall inform Gateway Qualifications as soon as reasonably practicable of any prospective changes in any laws and regulations affecting the Delivery of Qualifications in the Territory and shall ensure that the Delivery of Qualifications and any activities of the Recognised Centre under or in connection with the Recognised Centre Agreement comply with any such change by the date of implementation, or as soon as is reasonably practicable afterwards.
- 3.3 The Recognised Centre shall inform Gateway Qualifications 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 Recognised Centre Agreement (including, but not limited to, as a result of any changes in any applicable laws in the Territory or any enforcement action in the Territory), in which case Gateway Qualifications shall be entitled, without prejudice to Gateway Qualifications

other rights and remedies, to modify or withdraw the Recognised Centre's Recognition (in full or in part, including in respect of one or more of the Qualifications).

- 3.4 The Recognised Centre shall be solely responsible for obtaining (at its own cost) any licences or permits necessary for the Delivery of Qualifications in the Territory (if any).
- 3.5 In the event the Recognised Centre wishes to modify, add or withdraw certain or all of the Qualifications from its Recognition, it shall submit an application to Gateway Qualifications, in the form prescribed by Gateway Qualifications from time to time. Approval of any such application shall be at Gateway Qualifications' sole discretion.
- 3.6 In the event of the Recognised Centre becoming part of a group of colleges or other collaborative arrangement, it must promptly notify Gateway Qualifications.
- 3.7 In the event of the Recognised Centre choosing to change its Mode of Delivery, it must promptly notify Gateway Qualifications. The Recognised Centre may not change its Mode of Delivery without the prior consent of Gateway Qualifications.
- 3.8 Where the Recognised Centre provides Online Delivery or Blended Delivery for Qualifications it must operate and comply with any such requirements Gateway Qualifications determines to satisfy itself of the quality and integrity of the Delivery.
- 3.9 The Recognised Centre shall 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 Gateway Qualifications.
- 3.10 The Recognised Centre shall comply with all applicable legislation and guidance from relevant public bodies and all relevant Gateway Qualifications' Policies and Procedures in respect of the safeguarding and protection of those who come into contact with the Recognised Centre.

## 4. Identification and management of risk

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- 4.1 The Recognised Centre shall:
- 4.1.1 take reasonable steps to ensure that it does not render Gateway Qualifications unsuitable to continue to award its qualifications or perform its functions as an Awarding Organisation or an Access Validating Agency, whether directly or indirectly, and whether /by any act or omission;
- 4.1.2 have appropriate policies, procedures and training in place to allow it to identify which acts or omissions will have, or are likely to have, an Adverse Effect, and to identify the risks of these acts or omissions occurring;
- 4.1.3 take all reasonable steps to identify the risk of the occurrence of any incident which could have an Adverse Effect;
- 4.1.4 notify Gateway Qualifications, as soon as practicable upon becoming aware, of:
- (a) the risk of any incident which could have an Adverse Effect;
  - (b) acts, omissions or incidents which have, or are likely to have, an Adverse Effect; and/or
  - (c) any other act, omission or incident which may otherwise compromise the reputation of Gateway Qualifications and/or any of the Qualifications themselves;
- 4.1.5 following notification under clause 4.1.4, take all reasonable steps, in consultation with Gateway Qualifications, to:



- (a) prevent the act, omission or incident from occurring or, where it cannot be prevented, reduce the risk of that incident occurring;
- (b) prevent or mitigate any Adverse Effect as far as possible;
- (c) give priority to (i) the provision of assessments which accurately differentiate between Learners on the basis of the level of attainment they have demonstrated and (ii) the accurate and timely award of Qualifications.

## 5. Conflicts of interest

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- 5.1 The Recognised Centre shall:
  - 5.1.1 establish, maintain and comply with a conflict of interest policy which is complementary to the relevant Gateway Qualifications 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 Gateway Qualifications 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; and
  - 5.1.5 in any case where a conflict of interest nonetheless results in an Adverse Effect, cooperate with any action taken by Gateway Qualifications that seeks to mitigate the Adverse Effect as far as possible and correct it.

## 6. Resources

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- 6.1 The Recognised 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 deliver of the Qualifications;
  - 6.1.2 notify Gateway Qualifications promptly of any change of details of its personnel notified to Gateway Qualifications via Gateway Qualifications IT systems;
  - 6.1.3 provide its personnel with appropriate training and professional development to ensure maintenance and development of the appropriate level of skills and competence in connection with the Delivery of Qualifications, in accordance with good industry practice and any directions issued by Gateway Qualifications from time to time;
  - 6.1.4 allow staff to participate in events and activities that are essential for maintaining the quality and standards of Qualifications.
  - 6.1.5 maintain appropriate level of financial resources to support the Delivery of Qualifications in accordance with the Recognised Centre Agreement;

- 6.1.6 regularly monitor the resources it requires in order to deliver the Qualifications to the Learners;
- 6.1.7 have in place at all times an up-to-date disaster recovery and business continuity plan to protect the interests of Learners; and
- 6.1.8 promptly notify Gateway Qualifications if it becomes subject to Change of Control, insolvency proceedings or if it is unable to pay its debts.

## 7. Malpractice and maladministration

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- 7.1 The Recognised Centre shall:
  - 7.1.1 adopt and ensure compliance with an up-to-date policy and procedure, complementary to Gateway Qualifications' Policies and Procedures on malpractice and maladministration, that allow for the identification of, and aim to reduce, the risk and incidents of malpractice or maladministration occurring;
  - 7.1.2 take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the Delivery of the Qualifications;
  - 7.1.3 take all reasonable steps to monitor for risks and suspected incidents of malpractice or maladministration, and notify Gateway Qualifications of such risks and incidents as soon as practicable;
  - 7.1.4 cooperate and assist Gateway Qualifications in respect of the investigation of any such risks or incidents;
  - 7.1.5 where incidents of malpractice or maladministration are identified:
    - (a) take all reasonable steps to prevent such incidents from recurring, and
    - (b) cooperate with Gateway Qualifications in respect of any action taken by Gateway Qualifications against the Recognised Centre and/or any individuals responsible for such incidents which, for the avoidance of doubt, shall include Satellite Centre(s), any third parties with which Gateway Qualifications is Partnering and any third parties engaged in subcontracting for the purposes of clause 25 below;
    - (c) shall indemnify Gateway Qualifications in respect of 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 Gateway Qualifications in connection with the investigation of any instances of suspected malpractice, fraud or financial irregularities in relation to the Delivery, assessment and certification of qualifications within the Recognised Centre and any actions required by Gateway Qualifications;
    - (d) deliver all actions required to manage and rectify any incidents of malpractice, maladministration and poor practice which come to the attention of the Centre and of Gateway Qualifications and shall indemnify Gateway Qualifications in respect of all losses, cost, 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 Gateway

Qualifications as a result of a failure by the Recognised Centre to comply with any provision of the Recognised Centre Agreement.

- 7.1.6 report to Gateway Qualifications annually starting on the Commencement Date in respect of:
- (a) the arrangements put in place by the Recognised Centre for preventing and investigating malpractice or maladministration, and
  - (b) whether the Recognised Centre considers these arrangements to be adequate and effective.

## 8. Learner registration, assessments and moderation

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- 8.1 The Recognised Centre shall:
- 8.1.1 ensure that its personnel take all reasonable steps required to verify that the identity and information provided by the Learners upon registration is accurate and complete;
  - 8.1.2 register Learners with Gateway Qualifications promptly upon their enrolment with the Recognised Centre;
  - 8.1.3 only register Learners for Qualifications whom it reasonably expects to complete a Qualification;
  - 8.1.4 ensure that each Learner taking a Qualification is registered in a way that permits the Learner to be clearly and uniquely identified;
  - 8.1.5 take all reasonable steps to ensure that Learners are fully informed about the requirements of their selected Qualifications as set out in the relevant Qualification specifications and guides published by Gateway Qualifications from time to time;
  - 8.1.6 provide appropriate induction and support to Learners, and in respect of Access to Higher Education courses, provide pre-course guidance to Learners and criteria for selection and admission to Access to Higher Education courses consistent with QAA's requirements with respect of admissions;
  - 8.1.7 have in place arrangements to allow for recognition of prior learning, where this is appropriate for a Qualification, and in accordance with the relevant Gateway Qualifications Policies and Procedures;
  - 8.1.8 ensure that arrangements are in place to confirm Learners' identity for each assessment;
  - 8.1.9 take all reasonable steps to ensure that:
    - (a) assessments are delivered effectively and efficiently, and in accordance with any Qualifications specifications set out in the Gateway Qualifications Policies and Procedures or otherwise prescribed by Gateway Qualifications;
    - (b) any material produced by a Learner in an assessment is generated by that Learner;
    - (c) where an assessment is required to be completed under specified conditions, Learners complete the assessment under those conditions (except where Gateway Qualifications Policies and Procedures on equality and diversity policy and/or access arrangements, reasonable adjustments and special consideration require otherwise); and

- (d) the criteria against which Learners' performance will be differentiated are accurately and consistently applied;
- 8.1.10 ensure that the security and confidentiality of examination/assessment materials and the identity of the Learners is maintained at all times and is not in any way compromised;
- 8.1.11 take all reasonable steps to ensure that no person connected to it, or previously connected to it, discloses or causes to be disclosed information about any assessment or the content of any assessment materials where that information is confidential. The provisions of clause 19 shall apply to any such confidential information;
- 8.1.12 comply with any instructions issued by Gateway Qualifications in respect of the marking of evidence generated by a Learner during an assessment; and
- 8.1.13 comply with arrangements issued by Gateway Qualifications including but not limited to Gateway Qualifications' Policies and Procedures in respect of CASS.
- 8.2 The Recognised 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.
- 8.3 The Qualifications and/or assessments in connection with Qualifications shall be delivered in English language. The Recognised Centre shall not deliver the Qualifications and/or assessments in any other language without prior written approval of Gateway Qualifications.

## 9. Promotion

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- 9.1 The Recognised Centre shall not make any statement in relation to a Qualification which is liable to mislead Learners, potential Learners or any other persons, or which is not consistent with the scope of the Recognition and/or any specifications and guides issued by Gateway Qualifications in respect of such Qualifications.

## 10. Review, monitoring and complaints

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- 10.1 The Recognised 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 Recognised Centre Agreement at all times.
- 10.2 The Recognised Centre shall, on request from Gateway Qualifications:
  - (a) provide the results of such monitoring and review to Gateway Qualifications; and/or
  - (b) obtain feedback on Qualifications from Users.
- 10.3 The Recognised Centre shall operate an effective and appropriate complaints handling procedure and appeals process for the benefit of Learners.

## 11. Withdrawal

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- 11.1 The Recognised Centre shall, in the event it wishes to, or Gateway Qualifications decides to, withdraw the Recognition (including as a result of suspension or termination of Recognition) (in full or in part, including in respect of one or more of the Qualifications covered by the Recognition):

- 11.1.1 comply with the relevant Gateway Qualifications' Policies and Procedures;
- 11.1.2 promptly prepare, maintain and comply with a written withdrawal plan;
- 11.1.3 cooperate fully with Gateway Qualifications;
- 11.1.4 provide clear and accurate information about the withdrawal to the Users;
- 11.1.5 immediately cease to enrol Learners for Qualifications;
- 11.1.6 provide to Gateway Qualifications relevant details of all Learners enrolled for Qualifications; and
- 11.1.7 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.

## PART 3 GATEWAY QUALIFICATIONS OBLIGATIONS

### 12. Gateway Qualifications shall:

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- 12.1 Provide such guidance as may be reasonably requested or required in respect of the Delivery of Qualifications;
- 12.2 provide guidance as to how best to prevent, investigate, and deal with malpractice and maladministration;
- 12.3 make available any information reasonably necessary and requested by the Recognised Centre to assist it with the Delivery of Qualifications;
- 12.4 where it has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence may affect the Recognised Centre, it shall inform the Recognised Centre as soon as reasonably practicable; and
- 12.5 set out any requirements in relation to CASS including any information the Recognised Centre should retain for the purposes of CASS arrangements.

## PART 4 TERMS AND CONDITIONS

### 13. Equality and Diversity

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- 13.1 Gateway Qualifications has a statutory duty to comply with the requirements of the Equality Act 2010 (**"the Equality Act"**). The terms "discriminate", "harass", "victimise" and "protected characteristic" shall have the meanings given to them in the Equality Act.
- 13.2 The Recognised Centre shall:
  - 13.2.1 maintain an appropriate equality and diversity policy in respect of protected characteristics covering unlawful discrimination and other conduct prohibited by the Equality Act and any equivalent laws in the Territory. This includes not discriminating unlawfully, either directly or indirectly, on the grounds of disability, age, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation;

- 13.2.2 have due regard to the need to eliminate unlawful “discrimination”, “harassment” and “victimisation” and other conduct prohibited by the Equality Act;
- 13.2.3 comply with Gateway Qualifications Policies and Procedures on equality and diversity, access arrangements, reasonable adjustments and special consideration;
- 13.2.4 regularly monitor and review its compliance with this clause 13;
- 13.2.5 report to Gateway Qualifications without delay in the event of:
- (a) any features of any Qualifications of which it becomes aware which disadvantage or could disadvantage Learners with particular protected characteristics; and
  - (b) any complaints it receives relating to equality in the Delivery of Qualifications.
- 13.3 Gateway Qualifications may monitor and investigate any complaints or other notifications relating to equality in the Delivery of Qualifications.

## 14. Anti-bribery and anti-corruption

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- 14.1 The Recognised 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 and any equivalent laws in the Territory.

## 15. Data Protection

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- 15.1 In this clause 15:
- (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 Recognised Centre Agreement, including (as applicable): the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018, the UK Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679 (GDPR), and /or any corresponding or equivalent national laws or regulations in the Territory; 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, the Shared Personal Data;
  - (c) the term “**Data Subject Request**” shall mean an actual or purported request, notice or complaint made by, or on behalf of, a data subject in exercise of their rights under the Data Privacy Laws, relating to their Shared Personal Data;
  - (d) the terms “**controller**”, “**data subject**”, “**processor**”, “**personal data**”, “**processing**” and “**special categories of personal data**” shall have the meanings as defined in the Data Privacy Laws.
- 15.2 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:

- (a) the Learners or potential Learners (“**Learner Personal Data**”);
- (b) Employees, contractors, workers and/or other staff of each party (“**Staff Personal Data**”),
- (c) Any other personal data that may be necessary for either Party to process in order to comply with its obligations under the Recognised Centre Agreement,

in each case as exchanged between the Parties pursuant to the Recognised Centre Agreement (together, the “**Shared Personal Data**”).

- 15.3 Each Party shall ensure that it complies with its obligations under the Data Privacy Laws at all times during the term of the Recognised Centre Agreement. In addition, the Recognised Centre shall comply with any laws in relation to data privacy and security applicable in the Territory.
- 15.4 The Parties will only share and access the Shared Personal Data to the extent necessary for, and in accordance with, the Data Particulars set out in Schedule 2.
- 15.5 In the event a transfer of any Shared Personal Data from Gateway Qualifications to the Recognised Centre becomes necessary in connection with the Recognised Centre Agreement and such transfer would result in the transfer of the Shared Personal Data (i) outside of the UK and EEA and (ii) to a jurisdiction which is not subject to an adequacy decision under the Data Privacy Laws that the territory provides adequate protection for the privacy rights of individuals, the Recognised Centre hereby agrees to, promptly upon written request from the Gateway Qualifications, enter into a data transfer agreement (including, but not limited to, the EU Standard Contractual Clauses and/or the UK International Data Transfer Agreement as appropriate) with Gateway Qualifications, in a form reasonably prescribed by Gateway Qualifications which satisfies the requirements of the Data Privacy Laws in respect of international data transfers.
- 15.6 Upon Gateway Qualifications’ request, the Recognised Centre shall obtain on behalf of Gateway Qualifications, appropriate consents from relevant data subjects whose Shared Personal Data is shared with Gateway Qualifications, as Gateway Qualifications may require in order to process and control the Shared Personal Data under the Data Privacy Laws in a form prescribed by Gateway Qualifications from time to time.
- 15.7 The Recognised Centre shall, in respect of any Shared Personal Data, ensure that:
- (a) the Recognised Centre’s privacy notices/policies/statements are clear and provide: (i) sufficient information to Recognised Centre staff, the Learners and/or potential Learners (as appropriate) for them to understand which of their Shared Personal Data will be shared by the Recognised Centre with Gateway Qualifications, the purpose of sharing their Shared Personal Data with Gateway Qualifications the identity of Gateway Qualifications as the awarding organisation, and (ii) any other information as may be required under the Data Privacy Laws;
  - (b) the Recognised Centre’s privacy notices/policies/statements shall provide a link to Gateway Qualifications’ privacy notice/policy/statement (in the form that such notice/policy/statement is provided by Gateway Qualifications to the Recognised Centre from time to time); and
  - (c) the Shared Personal Data supplied by the Recognised Centre to Gateway Qualifications is accurate and kept up-to-date at all times.
- 15.8 Each Party agrees to provide 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 the Shared Personal Data, including to enable each Party to

comply with any Data Subject Requests and to respond to any other queries or complaints from data subjects or the Information Commissioner's Office in connection with the processing of the Shared Personal Data or any other matter.

- 15.9 Each Party will implement appropriate technical and organisational measures to safeguard the Shared Personal Data against any Data Security Breach. Such measures shall be proportionate to the harm which might result from any such Data Security Breach (and having regard to the nature of the Shared Personal Data in question).
- 15.10 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.
- 15.11 If the Recognised Centre experiences a Data Security Breach, the Recognised Centre will notify Gateway Qualifications of the Data Security Breach within 24 hours of becoming aware of such breach and provide Gateway Qualifications 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.
- 15.12 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.
- 15.13 The Recognised Centre shall at all times indemnify and keep indemnified Gateway Qualifications on demand against any and all losses, claims, costs, demands, expenses and any other liabilities (including legal fees) suffered by Gateway Qualifications arising from any breach of clause 15 by the Recognised Centre or its Workforce or any other person or organisation employed, engaged, and/or howsoever connected to the Recognised Centre.
- 15.14 The Recognised Centre must comply with all of Gateway Qualifications' security requirements published by Gateway Qualifications from time to time as part of the Gateway Qualifications' 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 Recognised Centre shall notify Gateway Qualifications as soon as reasonably practicable of any incident or risk of any incident which would result in Gateway Qualifications' 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.
- 15.15 The Recognised Centre warrants that it will not take any action or make any omission which would result in Gateway Qualifications breaching the Data Privacy Laws or bring it into disrepute for reasons related to data privacy.
- 15.16 Gateway Qualifications may terminate the Recognised Centre Agreement by serving a notice in writing to the Recognised Centre in the event of any breach of this clause 15 by the Recognised Centre.



## 16. Security

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- 16.1 The Recognised Centre must comply with all of Gateway Qualifications' security requirements, as notified to the Recognised Centre or published by Gateway Qualifications from time to time, including those concerning the storage of any examination papers. The Recognised Centre shall notify Gateway Qualifications as soon as reasonably practicable of any incident or risk of any incident which would result in the Recognised Centre's non-compliance with Gateway Qualifications' examination and 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.

## 17. Intellectual Property

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- 17.1 In consideration for the provision of the services to the Learners under the Recognised Centre Agreement, Gateway Qualifications hereby grants the Recognised Centre for the purpose of providing such services only and for the duration of the Recognised Centre Agreement the non-exclusive, revocable and non-transferable right (with no rights to sub-license) to:
- 17.1.1 designate the Recognised Centre as a Gateway Qualifications Recognised Centre;
  - 17.1.2 use the Gateway Qualifications Recognised Centre Logo; and
  - 17.1.3 use such other Gateway Qualifications Intellectual Property as Gateway Qualifications may permit in writing (on such terms as Gateway Qualifications shall specify from time to time) in connection with the Recognised Centre Agreement.
- 17.2 The Recognised Centre must ensure that all materials (including online materials) using Gateway Qualifications Intellectual Property produced by or on behalf of the Recognised Centre comply with:
- 17.2.1 any limitations and/or restrictions on use which may be communicated to the Recognised Centre by Gateway Qualifications from time to time;
  - 17.2.2 any branding and copy guidelines issued by Gateway Qualifications from time to time; and
  - 17.2.3 any specific guidance provided by Gateway Qualifications.
- 17.3 The Recognised Centre acknowledges and agrees that all Gateway Qualifications Intellectual Property shall vest in Gateway Qualifications absolutely and apart from the licence granted pursuant to clause 17.1, the Recognised Centre Agreement does not transfer any interest in Gateway Qualifications Intellectual Property.
- 17.4 All intellectual property rights developed or created by the Recognised Centre (or by the Recognised Centre in collaboration with Gateway Qualifications) in relation to the Qualifications shall vest in and be owned by Gateway Qualifications absolutely. To the extent that the Recognised Centre or its representatives are the first owners of any such intellectual property in any works in connection with Qualifications, the Recognised Centre hereby assigns all such rights with full title guarantee to Gateway Qualifications (and the Recognised Centre shall execute all documents and do all other acts as reasonably requested by Gateway Qualifications to execute and perfect such assignment and to otherwise evidence Gateway Qualification's absolute ownership of such rights). For the avoidance of doubt, all intellectual property rights in any materials in relation to Qualifications developed independently by the Recognised Centre and not derived or based on materials created for or on behalf of Gateway Qualifications, shall be owned by the Recognised Centre.

- 17.5 The Recognised Centre shall promptly give written notice to Gateway Qualifications of any actual, threatened or suspected infringement of any Gateway Qualifications Intellectual Property of which it becomes aware.
- 17.6 The Recognised Centre will ensure that it does not suggest in any way that it is owned or controlled by Gateway Qualifications or that it has been franchised by Gateway Qualifications. The Gateway Qualifications Recognised Centre Logo and certificate of registration are the only valid proofs of the Recognised Centre's registration by Gateway Qualifications.
- 17.7 The Recognised 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 Gateway Qualifications 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 Gateway Qualifications, or may interfere with or jeopardise the registration and/or validity of Gateway Qualifications Intellectual Property.
- 17.8 The Recognised Centre will ensure that its public information about Qualifications is accurate and reliable and that any use it makes of Regulator's logos is consistent with the Regulator's guidance (if applicable).
- 17.9 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 Recognised Centre Agreement.

## 18. Database of Learners

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- 18.1 Gateway Qualifications acknowledges and agrees that, as between the Recognised Centre and Gateway Qualifications, the Recognised Centre owns all the data in the database of Learners and that all intellectual property rights in the database of Learners are the property of the Recognised Centre.
- 18.2 The Recognised Centre grants to Gateway Qualifications a non-exclusive and perpetual licence to use the database of Learners in connection with the Recognised Centre Agreement and Gateway Qualifications' role as an Awarding Organisation. This licence shall survive termination of the Recognised Centre Agreement for any reason.

## 19. Confidentiality

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- 19.1 The Recognised 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 Recognised Centre's personnel preserve its confidentiality;
- 19.1.2 report any suspected breaches of confidentiality to Gateway Qualifications as soon as reasonably practicable; and
- 19.1.3 cooperate with any investigations into such suspected breaches by Gateway Qualifications.
- 19.2 The obligations in clause 19.1 shall survive the termination of the Recognised Centre Agreement until such time as the Recognised Centre no longer holds any Confidential Information which has been provided to the Recognised Centre by Gateway Qualifications or its agents in connection with the Recognised Centre Agreement.

- 19.3 “Confidential Information” in the Recognised Centre Agreement means any information which has been designated as confidential by Gateway Qualifications 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 Intellectual Property of Gateway Qualifications and all personal data and sensitive personal 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 Recognised Centre, without restriction as to its disclosure, before receiving it from Gateway Qualifications;
- 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.
- 19.4 For the avoidance of doubt, Gateway Qualifications may share information relating to the Recognised Centre, this Agreement, and the Delivery of the Qualifications by the Recognised Centre with a Regulator where such Regulator requests information from Gateway Qualifications or where Gateway Qualifications considers it necessary or desirable to share such information.

## 20. Retention of records

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- 20.1 Recognised 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 Gateway Qualifications Policies and Procedures, and in the format required by Gateway Qualifications;
- 20.1.2 keep complete and accurate records for the duration of this Recognised 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 Recognised Centre’s compliance with its obligations under the Recognised Centre Agreement and the Delivery of Qualifications and make these available to Gateway Qualifications upon request (at the Recognised Centre’s own cost), including, but not limited to attendance, performance, assessment and feedback and Learner feedback records.

## 21. Fees and payments

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- 21.1 Recognised Centre shall pay any fees that may be payable in connection with the Recognised Centre Agreement, as notified to the Recognised Centre by Gateway Qualifications upon Recognition and thereafter.
- 21.2 Unless otherwise stated, all fees notified to the Recognised Centre by Gateway Qualifications are exclusive of Value Added Tax (if applicable) and/or any equivalent sales tax in the Territory.
- 21.3 The Recognised Centre shall make payment of all valid invoices presented by Gateway Qualifications in accordance with the Gateway Qualifications Policies and Procedures on invoicing and payment, and not later than within 30 days of the date of the invoice (“**Payment Date**”). Failure to pay fees may result in suspension or withdrawal of Recognition.

- 21.4 All amounts due under the Recognised Centre Agreement from the Recognised Centre to Gateway Qualifications shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 21.5 Gateway Qualifications reserves the right, at any time and without notice to the Recognised Centre, to set off any liability of the Recognised Centre to Gateway Qualifications against any liability of Gateway Qualifications to the Recognised Centre, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Recognised Centre Agreement.
- 21.6 Any fees payable by the Recognised Centre to Gateway Qualifications are, unless otherwise stated in the relevant Gateway Qualifications Policies and Procedures, non-refundable.
- 21.7 The Recognised Centre acknowledges and agrees that it will be responsible for all expenses incurred by it or persons acting on its behalf in connection with the Recognised Centre Agreement, including, but not limited to the costs of recruitment and registration of Learners and the costs of assessments.
- 21.8 If any amount remains unpaid after the Payment Date Gateway Qualifications reserves the right to charge interest on any outstanding fees on a daily basis at the Bank of England Base Rate plus 4%.
- 21.9 Without prejudice to Gateway Qualifications' other rights and remedies, failure to pay any fees due may result in suspension or withdrawal of Recognition (in whole or in part, including in respect of one or more of the Qualifications) and to the termination of the Recognised Centre Agreement under clause 23 (Termination).
- 21.10 The Recognised Centre shall indemnify Gateway Qualifications on demand for all costs and expenses incurred in connection with the recovery of any fees due under the Recognised Centre Agreement.
- 21.11 The Recognised Centre is solely responsible for the collection, remittance and payments of any taxes, charges, levies, assessments and other fees of any kind imposed by a governmental or other authority in the Territory in connection with the Delivery of Qualifications.

## 22. Limitation of liability and indemnity

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- 22.1 Nothing in the Recognised 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 personnel, agents or subcontractors, fraud or fraudulent misrepresentation or any other liability that cannot be excluded or limited under English law.
- 22.2 Subject to clauses 22.1 and 22.3:
- 22.2.1 Gateway Qualifications shall have no liability to the Recognised Centre, whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with the Recognised 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 Gateway Qualifications' 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 Recognised Centre Agreement shall be limited to a

maximum sum equal to the total fees paid by the Recognised Centre under the Recognised 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).

- 22.3 The Recognised Centre agrees to compensate and indemnify Gateway Qualifications on demand against any liabilities (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) suffered, or incurred, by Gateway Qualifications, or its personnel directly, or indirectly, arising from, or in connection with:
- 22.3.1 claims made by the Recognised Centre or any of its employees or other persons acting on its behalf for any employment-related payment or remuneration;
- 22.3.2 alleged and/or actual infringement or theft of any confidential information or Gateway Qualifications' owned or licensed Intellectual Property by the Recognised Centre's employees or other persons engaged in the Delivery of Qualifications or acting on the Recognised Centre's behalf;
- 22.3.3 any claim made against Gateway Qualifications by any third party to the extent that such claim arises as a result of the Recognised Centre's breach, negligent performance or failure or delay in performing any of its obligations under the Recognised Centre Agreement; and/or
- 22.3.4 any act or omission by the Recognised Centre (including, but not limited to, a breach of the Recognised Centre Agreement), or its personnel or sub-contractors, which places Gateway Qualifications in breach of any obligation as an Awarding Organisation.
- 22.4 For the duration of the Recognised Centre Agreement and for one year thereafter, the Recognised Centre will maintain full and comprehensive insurance at a level sufficient to cover any potential risks arising from the Recognised Centre's operations in connection with the Recognised Centre Agreement. Upon request, the Recognised Centre shall provide to Gateway Qualifications evidence of the validity of the insurance held in accordance with this clause 22.4.

## 23. Termination

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- 23.1 Either Party may terminate the Recognised Centre Agreement (and therefore the Recognition) for any reason as follows:
- (a) A Recognised Centre will be required to provide not less than six (6) months written notice to the other party
  - (b) Gateway Qualifications will be required to provide not less than three (3) months written notice to the other Party.
- 23.2 Without prejudice to any of its rights or remedies, Gateway Qualifications may terminate the Recognised Centre Agreement immediately on written notice if the Recognised Centre:
- 23.2.1 is subject to a sanction under the Sanctions Policy resulting in the withdrawal of Recognition;
- 23.2.2 is in material or persistent breach of any other terms of the Recognised Centre Agreement and if the breach is capable of remedy has failed to remedy it within fourteen (14) days of receiving notice requiring it to do so, or within a reasonable shorter period specified in the notice;

- 23.2.3 Gateway Qualifications reasonably believes that the Recognised Centre's conduct is prejudicial to Gateway Qualifications' interests (including, but not limited to, in the case of the Recognised 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;
- 23.2.4 has not registered any Learners with Gateway Qualifications for more than twelve (12) months;
- 23.2.5 the Recognised Centre undergoes a Change of Control and such change may, in the reasonable opinion of Gateway Qualifications, affect the Recognised Centre's ability to comply with its obligations under the Recognised Centre Agreement;
- 23.2.6 ceases or threatens to cease to trade; or becomes bankrupt; or goes into liquidation; or has a receiver or manager appointed over its business or any of the property or assets of the business;
- 23.2.7 is unable to offer Qualifications as a result of a change in laws and/or regulations in the Territory, or as a result of loss of a licence or permit necessary to deliver the Qualifications in the Territory; or
- 23.2.8 is subject to a sanction placed on it by another Awarding Organisation, equivalent to a Gateway Qualifications sanction, resulting in the withdrawal of its recognition with that Awarding Organisation.
- 23.3 Without prejudice to any of its rights or remedies, Gateway Qualifications may terminate the Recognised Centre Agreement immediately on written notice if Gateway Qualifications loses its status as an Awarding Organisation in respect of all Qualifications.
- 23.4 Gateway Qualifications reserves the right to suspend or restrict the Recognition with immediate effect during the fourteen (14) days given to the Recognised Centre to remedy a breach under clause 23.2.2 and/or while it is investigating the Recognised Centre's conduct under any of the provisions of Part 2 of these Terms.

## 24. Consequences of suspension or termination

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- 24.1 The Recognised Centre shall take all reasonable steps to act in the Learners' legitimate best interests in the event of suspension of Recognition (in full or in part) and/or during any investigation conducted by Gateway Qualifications, or in the event of termination of the Recognised Centre Agreement pursuant to clause 23, including, but not limited to, such co-operation as may be required to effect the transfer of Learners to another Recognised Centre.
- 24.2 Upon termination of the Recognised Centre Agreement (howsoever caused) or suspension of Recognition (in full or in part):
- 24.2.1 all outstanding sums payable under the Recognised Centre Agreement shall immediately become due and payable;
- 24.2.2 the Recognised Centre shall immediately cease to advertise any of the Qualifications; and
- 24.2.3 the Recognised Centre shall immediately cease to use the Gateway Qualifications Recognised Centre Logo in connection with the promotion of any qualifications or other business activities.

- 24.3 Immediately upon termination of the Recognised Centre Agreement (or suspension, withdrawal or expiry of the Recognition, in full or in part), the Recognised Centre will, at Gateway Qualifications' reasonable request, fulfil those specified obligations to Gateway Qualifications and/or the Learners which remain unfinished as at the date of termination or suspension, and upon completion of such obligations:
- 24.3.1 cease to use any of Gateway Qualifications' property, the Gateway Qualifications Intellectual Property and all of the materials produced by or on behalf of the Recognised Centre using such Gateway Qualifications Intellectual Property (and destroy or return any of these at Gateway Qualifications' request) and do such things and execute and deliver all further documents as may be necessary to vest all rights, title and interest to Gateway Qualifications under the Recognised Centre Agreement;
- 24.3.2 cease to deliver the Qualifications; and
- 24.3.3 cease to use any Gateway Qualifications IT systems (if applicable).
- 24.4 On termination of the Recognised Centre Agreement for any reason, the Recognition will cease however each Party's accrued rights and liabilities as at termination, clause 11 (Withdrawal), clause 21 (Fees and payments), clause 18.2, clause 19 (Confidentiality), clause 20 (Retention of records); clause 22 (Limitation of liability and indemnity), clause 24 (Consequences of suspension or termination), clause 26.12 (Mediation) and clause 26.14 (Governing Law and Jurisdiction) will survive and continue in full force and effect.

## 25. Satellite Sites, Venues, and Subcontracting

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- 25.1 The Recognised Centre may not operate a Satellite Site or Venue without prior written consent from Gateway Qualifications. If the Recognised Centre wishes to operate a Satellite Site or Venue, the Recognised Centre will provide Gateway Qualifications with notice specifying:
- a. whether the location is a Satellite Site or Venue;
  - b. how the Recognised Centre will monitor and quality assure the Satellite Site or Venue;
  - c. the address of the Satellite Site or Venue; and
  - d. the reasons the Recognised Centre wishes to use the Satellite Site or Venue.
- 25.2 If consent is granted the Recognised Centre shall ensure that each Satellite Site and/or Venue complies with the relevant provisions of the Recognised Centre Agreement and actively monitors that such Satellite Site and/or Venue does so.
- 25.3 Each Satellite Site(s) must have access to and comply with all of Gateway Qualifications' Policies and Procedures.
- 25.4 The Recognised Centre may not assign, transfer, charge, sub-contract, or otherwise dispose of any of its rights, benefits or obligations arising out of the Recognised Centre Agreement to any other person without Gateway Qualifications' prior written consent. For the avoidance of doubt, this includes but is not limited to entry into any Partnering agreements.
- 25.5 For Access to HE Diplomas, the Recognised Centre may not assign, transfer, charge, sub-contract, or otherwise dispose of any of its rights, benefits or obligations arising out of the Recognised Centre Agreement to any other person.
- 25.6 Where Gateway Qualifications has given written consent under clause 25.4, the Recognised Centre will be responsible for ensuring that the relevant third party has the appropriate capacity and capability to ensure the provision of the services under

the Recognised Centre Agreement at all times and will agree in writing to any requirements Gateway Qualifications may have in providing its consent under clause 25.4. The Recognised Centre shall remain liable at all times to Gateway Qualifications for the acts, errors or omissions of any such third party.

- 25.3.1 The Recognised Centre shall ensure that any such third party appointed by the Recognised Centre under this clause 25 to provide any services complies with all aspects of the Recognised Centre Agreement and it is subject to legally binding terms not less onerous than the terms of the Recognised Centre Agreement; and
- 25.3.2 clearly discloses its status and relationship with the Recognised Centre in any communication with Learners in connection with Qualifications.
- 25.7 For the avoidance of doubt, where Gateway Qualifications has given written consent under clause 25.4, such consent does not extend to the right of the Recognised Centre to sub-license any of its rights in respect of Gateway Qualifications Intellectual Property (including in respect of the Gateway Qualifications Recognised Centre Logo). Any use of Gateway Qualifications Recognised Centre Logo and/or other Gateway Qualifications Intellectual Property, and any other activity that could reasonably associate such third party with Gateway Qualifications shall require prior written consent of Gateway Qualifications given in respect of such third party.
- 25.8 In the event that Gateway Qualifications provides consent to the Recognised Centre to sub-contract in order to assist in the provision of the services under the Recognised Centre Agreement, the Recognised Centre shall be responsible for the management of such sub-contractors and the Recognised Centre must ensure their compliance with all aspects of the Recognised Centre Agreement, in particular by ensuring they are contracted (as far as applicable) on terms not less onerous than the terms of the Recognised Centre Agreement. The Recognised Centre shall remain liable at all times to Gateway Qualifications for the acts, errors or omissions of any such third party.
- 25.9 Gateway Qualifications 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 Recognised Centre Agreement.

## 26. General

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- 26.1 Subject to clause 26.2 and clause 26.3, no amendment or variation of the Recognised Centre Agreement shall be effective unless it is in writing and duly executed by or on behalf of each of the Parties.
- 26.2 Gateway Qualifications may from time to time amend or vary these Terms upon written notice to the Recognised Centre, which may be provided electronically. Any variation or amendment of these Terms shall take effect from the date specified in the notice of variation or amendment.
- 26.3 For the avoidance of doubt, Gateway Qualifications may at any time amend or vary any or all of the Gateway Qualifications Policies and Procedures by publishing the amended or varied version(s) on the Website or otherwise making it available to the Recognised Centre. Any such variation or amendment takes effect from the date of such publication or notification.
- 26.4 The invalidity, illegality or unenforceability of any term, part-term of or any right arising pursuant to the Recognised 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.

- 26.5 Neither Party will be in breach of the Recognised Centre Agreement nor liable for a delay or failure in performance resulting from events, circumstances or causes beyond its reasonable control (but not including such events, circumstances or causes that were known by the relevant Party, or could reasonably have been foreseen by the Relevant party, at the time of entering into the Recognised Centre Agreement or at the time when this version of the Recognised Centre Agreement came into force). 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 Recognised Centre Agreement by giving fourteen (14) days' written notice to the other Party.
- 26.6 Without prejudice to any other rights or remedies that Gateway Qualifications may have, the Recognised Centre acknowledges and agrees that damages alone may not be an adequate remedy for breach of the terms of the Recognised Centre Agreement and that Gateway Qualifications shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach by the Recognised Centre of any of the terms of the Recognised Centre Agreement.
- 26.7 Any notice under or in connection with the Recognised 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 Recognised Centre to the authorised person whose email address is stated in the Centre Recognition Application (or otherwise notified to Gateway Qualifications), and in the case of Gateway Qualifications, to that of the Gateway Qualifications representative whose email address will be specified in the Recognition 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.
- 26.8 A person who is not a Party to the Recognised 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 Recognised Centre Agreement.
- 26.9 Nothing in the Recognised 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.
- 26.10 A waiver of any right or remedy under the Recognised 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 failure or delay by a Party to exercise any right or remedy provided under the Recognised Centre Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Recognised Centre Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

- 26.11 The Recognised Centre Agreement constitutes the entire agreement between the Parties and supersedes all previous agreements, arrangements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Recognised Centre Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Recognised Centre Agreement and each Party acknowledges that, in entering into the Recognised Centre Agreement, it has not relied on any representation or warranty.
- 26.12 If a dispute arises out of or in connection with the Recognised 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:
- 26.12.1 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 such Party to any settlement agreed between the Parties) shall attempt in good faith to resolve the Dispute;
- 26.12.2 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.
- 26.13 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 26.12 which clause shall apply at all times.
- 26.14 Each Party agrees that the Recognised Centre Agreement and the relationship between the Recognised Centre and Gateway Qualifications will be governed by and construed in accordance with the law of England and Wales and 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 the Recognised Centre Agreement or its subject matter or formation.

## Schedule 1 Gateway Qualifications Policies and Procedures

1. Handbooks and centre guidance
2. Appeals policy
3. Complaints policy
4. Sanctions policy
5. Equity, Diversity and Inclusion policy
6. Reasonable adjustments and special considerations policy
7. Conflict of interest policy
8. Malpractice and maladministration policy
9. Invoicing policy
10. Recognition of prior learning policy and process
11. Centre Recognition Withdrawal policy and procedure

Policies with specific reference to Access to HE

1. Access to HE Diploma Learner Appeals Policy

## Schedule 2 Data Particulars

ITEM	DETAILS
<p><b>Shared Personal Data</b></p>	<p><b>Types of personal data:</b></p> <ul style="list-style-type: none"> <li>• Staff Data: <ul style="list-style-type: none"> <li>○ Names</li> <li>○ Contact details (including email address and phone number)</li> <li>○ Any information as obtained in the context of an investigation or similar</li> </ul> </li> <li>• Learner Data: <ul style="list-style-type: none"> <li>○ Names</li> <li>○ Date of birth</li> <li>○ Gender</li> <li>○ Ethnicity</li> <li>○ Employment Status</li> <li>○ Details of any reasonable adjustments or special considerations</li> <li>○ Any information as obtained in the context of supporting the qualification awarding process</li> </ul> </li> </ul> <p><b>Categories of data subject:</b></p> <ul style="list-style-type: none"> <li>• Staff of each Party (including employees, contractors, workers and/or other staff)</li> <li>• Learners and/or potential Learners</li> </ul> <p>NB The Parties may share other personal data pursuant to the Recognised Centre Agreement from time to time, and will endeavour to record such categories of personal data and the purposes for processing such personal data in writing.</p>
<p><b>Special categories of personal data, criminal data, or otherwise sensitive data<sup>1</sup></b></p>	<p><b>Learner Data:</b></p> <ul style="list-style-type: none"> <li>• Ethnicity</li> <li>• Gender (which shall be considered special category data to the extent that the information relates to e.g. transgenderism and/or gender identity)</li> <li>• Health information</li> </ul>

<sup>1</sup> **Special categories of personal data** include: personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation. **Criminal data** includes: personal data relating to criminal convictions and offences.

ITEM	DETAILS
<b>Purpose of the transfer of the Shared Personal Data</b>	The Parties will share the Shared Personal Data to the extent required to enable the Parties to comply with their respective obligations under the Recognised Centre Agreement.
<b>Lawful bases for sharing the Shared Personal Data</b>	<p>The Parties rely on the following lawful bases for sharing the Shared Personal Data:</p> <ul style="list-style-type: none"> <li>• Legitimate interests</li> <li>• Performance of a contract</li> <li>• Legal obligation</li> <li>• Consent</li> </ul> <p>In addition, the Parties rely on the following conditions/ grounds when processing special category data and criminal data:</p> <ul style="list-style-type: none"> <li>• Consent</li> <li>• Substantial Public Interest (for example equal opportunities monitoring)</li> </ul>
<b>Will the parties share the Shared Personal Data will any other parties (Third Party/Parties)?</b> (excluding processors)	Yes, where appropriate Gateway Qualifications may need to share the Shared Personal Data with Regulators or similar, for example in the context of an investigation relating to the Recognised Centre