



CENTRE AGREEMENT

Date of Agreement:

Parties to the Agreement:

FDQ Ltd, 4100 Park Approach, Leeds LS15 8GB

(hereinafter referred to as **we, us** and **our**)

And

Brooklands College, Heath Road, Weybridge, Surrey, KT13 8TT

(hereinafter referred to as **you** and **your**)

DATE AND DURATION OF THE AGREEMENT

This Agreement will be in place from the date of agreement between you and us and will remain in place indefinitely unless terminated by us or you in accordance with the terms of this Agreement.

PURPOSE OF THE AGREEMENT

This Agreement sets out all the requirements with which the centre must comply in order to deliver FDQ-accredited qualifications, and the terms and conditions to which centres approved to offer FDQ qualifications are subject. On commencement of the Agreement the centre is bound by its provisions. The Agreement meets the regulatory requirements of Ofqual, CCEA and Qualifications Wales. By submitting an application for centre/qualification approval the centre confirms that it has read and understood this Agreement and undertakes to comply with its requirements. By signing this Agreement, you accept that it is enforceable.

THE AGREEMENT

GENERAL

- 1 You shall ensure that:
 - 1.1 you promote and uphold high standards in the provision of our qualifications through quality, accuracy, fairness and consistency in the awarding process;
 - 1.2 all personnel involved in any part of the delivery of our qualifications must read, understand and commit to the shared values outlined in the Centre Handbook and follow the relevant qualification handbooks in order that they properly discharge their responsibilities in the provision of our qualifications. This includes management and administrative personnel, tutors, trainers, invigilators, examiners, assessors and internal quality assurance personnel at main and satellite sites;
 - 1.3 you take all reasonable steps to protect the interests of learners relating to all aspects of the delivery of our qualifications;
 - 1.4 you comply at all times with our policies and procedures;
 - 1.5 you comply with and ensure personnel comply with the terms of use of our website;

- 1.6 you notify us as soon as possible if you become or you identify a risk that you will become unable to deliver any or all of the qualifications for which you have approval from us to deliver.

REGULATORY

- 2 In undertaking any part of the delivery of qualifications on behalf of us you shall:
 - 2.1 take all reasonable steps to ensure that we are able to comply with the requirements of the regulatory authorities;
 - 2.2 take all reasonable steps to comply in a timely way with requests for information or documents made by us or the regulatory authorities;
 - 2.3 assist us in carrying out any reasonable monitoring activities;
 - 2.4 assist the regulatory authorities in any investigations undertaken while carrying out their duties.

IDENTIFICATION AND MANAGEMENT OF RISK

- 3 You shall:
 - 3.1 have policies and procedures in place which allow you to identify and manage the occurrence of any incident which could have an Adverse Effect;
 - 3.2 provide training in relation to identifying and managing the occurrence of incidents which could have an Adverse Effect;
 - 3.3 take all reasonable steps to identify the risk of the occurrence of any incident which could have an Adverse Effect;
 - 3.4 notify us immediately upon identifying any such risk, act, omission or incident;
 - 3.5 take all reasonable steps following notification to us and in consultation with us to prevent the incident from occurring, reduce the risk of occurrence, and prevent or mitigate Adverse Effects.

Definition: Adverse effect

An act, omission, event, incident, or circumstance has an Adverse Effect if it –

- (a) gives rise to prejudice to Learners or potential Learners, or
- (b) adversely affects –
 - (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
 - (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
 - (iii) public confidence in qualifications.

RESOURCES

- 4 You shall ensure that in respect of the delivery of our qualifications:
 - 4.1 learners have access to a safe and managed environment for the provision of their learning and assessment;
 - 4.2 the number of appropriately trained, qualified and competent personnel is sufficient to support the planned and actual number of learners who register on our qualifications and those personnel undergo a robust induction, training and CPD, which are monitored for effectiveness;
 - 4.3 all resource requirements are reviewed regularly;
 - 4.4 you have sufficient managerial, financial, technical and other resources in place;
 - 4.5 personnel understand the relevant qualification specifications fully;

- 4.6 personnel are familiar with and have access to all related centre and awarding organisation policies and procedures in order to be able to carry out their roles effectively;
- 4.7 personnel across all sites and locations are kept fully informed of relevant matters;
- 4.8 quality assurance processes are in place, understood, and implemented across all sites and locations.

5 You shall:

- 5.1 provide us with relevant personnel records such as CVs, qualification evidence and performance records upon request;
- 5.2 notify us immediately of any changes to key post holders;
- 5.3 have in place an up-to-date disaster recovery plan and business continuity plan which protect the interests of learners.

LEARNER REGISTRATION and ASSESSMENT

6 You shall:

- 6.1 check as far as is reasonable the identity of learners at enrolment and that the information provided by learners at enrolment is accurate and complete;
- 6.2 register learners with us immediately after their enrolment at the centre;
- 6.3 ensure that each learner, funded by the Education and Skills Funding Agency, is allocated a unique learner number;
- 6.4 take all reasonable steps to ensure that learners are fully informed about the requirements of their selected qualifications;
- 6.5 provide appropriate induction and support to learners;
- 6.6 have policies and procedures in place for identifying and confirming relevant exemptions and proxies (APL/RPL) which may apply in specific circumstances. These are detailed in the relevant qualification handbook;
- 6.7 ensure that learners' identities are verified at points of assessment;
- 6.8 take all reasonable steps to ensure that:
 - 6.8.1 assessments are delivered in line with qualification specifications, assessment criteria, and in keeping with the requirements set out in the Centre Handbook
 - 6.8.2 any material produced by a learner which forms part of the assessment is generated by that learner
 - 6.8.3 the criteria against which learners' performance will be differentiated are accurately and consistently applied
- 6.9 ensure that the security of assessment materials is maintained at all times;
- 6.10 ensure that arrangements are in place for results and claims for learner achievement to be submitted to us securely, accurately and in a timely manner;
- 6.11 take all reasonable steps to ensure that no person currently or previously connected to you discloses or causes to be disclosed any confidential assessment information;
- 6.12 comply with the instructions issued by us in respect of the marking of evidence generated by a learner during an assessment;
- 6.13 not permit any part of the assessment of a learner to be undertaken by a person who has a personal interest in the outcome of the assessment.

ENQUIRIES, COMPLAINTS AND APPEALS

7 You shall:

- 7.1 offer complaints and appeals processes for the use of learners and ensure they know how to access them;
- 7.2 respond within the timescale set out in your policies and processes to complaints and appeals submitted by learners;
- 7.3 comply with our enquiry policy and procedures and complaints policy and procedures as set out in our Centre Handbook.

REASONABLE ADJUSTMENTS AND SPECIAL CONSIDERATIONS

- 8 You shall have a policy and procedure in place for identifying and confirming appropriate reasonable adjustments and managing special considerations, as set out in section 7 of the Centre Handbook.

MALPRACTICE AND MALADMINISTRATION

- 9 You shall:
 - 9.1 be familiar with and comply with our malpractice and maladministration policy and procedure as set out in section 6 of the Centre Handbook;
 - 9.2 have and comply with an internal malpractice and maladministration policy and procedures;
 - 9.3 have and comply with an internal whistle blower policy.

CONFLICT OF INTEREST

- 10 You shall have and comply with a conflict of interest policy which is complementary to our own conflict of interest policy.

QUALITY ASSURANCE AND ASSESSMENT

- 11 You shall:
 - 11.1 comply with the requirements for assessment as set out in the statements of criteria for assessment in the Centre Handbook section 6;
 - 11.2 comply with all the quality assurance requirements placed on you relating to all aspects of qualification delivery and as set out in the Centre Handbook section 6;
 - 11.3 ensure that effective quality assurance and management processes are in place at all sites;
 - 11.4 monitor, review and take appropriate action resulting from the quality assurance and management processes;
 - 11.5 assist and cooperate fully with us in our quality assurance and monitoring activities of your centre;
 - 11.6 ensure that our external assessment materials are stored securely at all times.

RETENTION OF RECORDS AND ACCESS TO RECORDS PEOPLE AND PREMISES

- 12 You shall:
 - 12.1 maintain and store securely complete and accurate learner records in accordance with data protection legislation and make the records available to us on request;
 - 12.2 maintain, store securely and provide appropriate access to up-to-date information and data regarding qualification provision;
 - 12.3 retain adequate assessment and internal quality assurance records for a minimum of three years after learner certification;

- 12.4 make records available to us or the regulatory authorities on request and in a timely manner;
- 12.5 allow us and the regulatory authorities access to premises, people and records as required, and co-operate fully with our or the regulators' monitoring activities.

SANCTIONS

- 13 You shall comply fully with our Sanctions Policy.

WITHDRAWAL OF APPROVAL AND INTERESTS OF LEARNERS/MANAGEMENT OF THE WITHDRAWAL OF QUALIFICATIONS

- 14 You shall:
 - 14.1 take all reasonable steps to protect the interests of learners in respect of withdrawal of approval or of a qualification;
 - 14.2 follow the guidance and procedures set out in the Centre Handbook section 5.4;
 - 14.3 have and comply with a withdrawal policy and procedure, which prioritises the protection of learners' interests in respect of withdrawal of approval or of a qualification;
 - 14.4 notify us without delay upon a decision to withdraw being taken and submit a withdrawal plan;
 - 14.5 cease registration to the related qualification(s) immediately;
 - 14.6 provide and deliver a communication plan about the withdrawal and ensure all affected parties are notified;
 - 14.7 cooperate with us in determining how the interests of affected learners are best served and in managing the withdrawal of the centre or qualification;
 - 14.8 assist with the transfer of learners to other approved centres/qualifications where appropriate;
 - 14.9 upon completion of all withdrawal arrangements remove our logo from all related publications, web pages and all other locations.

FINANCIAL

Viability

- 15 You shall provide to us on request documentation to enable us to consider your financial viability and capacity to deliver qualifications to the number of learners you plan to register on our qualifications.

Charges

- 16 You shall:
 - 16.1 pay in full all valid invoices from us within the stated terms and conditions;
 - 16.2 be responsible for the payment of costs incurred by you and those acting on your behalf relating to the recruitment, registration and assessment of learners.

LEGISLATION

- 17 You shall comply with all laws and regulations relating to your activities in delivering our qualifications, in particular:

Anti-corruption and Anti-bribery

- 17.1 all applicable laws, statutes, and regulations relating to anti-corruption and anti-bribery including but not limited to the Bribery Act 2010.

Data Protection and Privacy

17.2 the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679 , either the Privacy and Electronic Communications (EC Directive) Regulations 2003 or the EU ePrivacy Regulation whichever is in force in the UK at the relevant time; and all other applicable laws and regulations relating to the processing of personal data and privacy.

17.3 You shall

17.3.1 ensure that your privacy notices to learners are clear and provide clarity about which of their personal data are shared with us;

17.3.2 have and comply with your own policies and procedures to address any data security breach.

Equality and Diversity

17.4 the Equality Act 2010.

17.5 You shall:

17.5.1 have and comply with an equality and diversity policy and procedures which address the relevant requirements of the Equality Act 2010;

17.5.2 comply with our policy and procedures on equality and diversity, reasonable adjustments and special consideration;

17.5.3 notify us immediately if you:

17.5.3.1 become aware of any features of existing qualifications which could or do disadvantage learners with protected characteristics;

17.5.3.2 receive a complaint relating to equality in the delivery of qualifications.

INTELLECTUAL PROPERTY

18 You shall:

18.1 not acquire any rights in respect of our intellectual property (IP);

18.2 do anything we reasonably ask to help us protect our ownership of these rights;

18.3 inform us immediately of any issues or potential issues relating to our IP.

THIRD PARTIES AND SUB-CONTRACTORS (ASSIGNMENT)

19 You shall:

19.1 implement and maintain an effective system for the management of all third parties and sub-contractors and ensure that all relevant policies and requirements referred to in this Agreement apply to these third parties and sub-contractors;

19.2 have in place Agreements with third parties and sub-contractors to ensure that all policies and requirements referred to in this Agreement are enforceable with them;

19.3 ensure that the respective roles and responsibilities of any partnership arrangements are documented and made available to us on request;

19.4 ensure you keep third parties and sub-contractors up to date with relevant requirements from ourselves and the regulatory authorities;

19.5 not assign or transfer any benefit or obligation under this Agreement without our prior written consent.

USE OF LOGO

20 You shall agree to use our logo only in accordance with our guidance.

COPYRIGHT

21 You shall agree to our requirements on copyright as notified to you from time to time.

SECURITY

22 You shall comply with our security requirements, as notified to you from time to time, including those relating to the security of sensitive personal data, the storage of assessment documents and the verification of learner identity at enrolment/registration and assessment.

PROMOTION/REPRESENTATIONS AND BRANDING

23 You shall:

- 23.1 promote only those qualifications which you have been approved to deliver;
- 23.2 not make any statement in relation to our qualifications which may be misleading.

PROVISION OF INFORMATION AND REPORTING

24 You shall inform us immediately if you are or believe you may become subject to:

- 24.1 a material change in your governance structure or legal status;
- 24.2 a change of control of the organisation;
- 24.3 insolvency.

25 You shall ensure that all information provided to us is accurate and complete.

CONFIDENTIALITY

26 You shall:

- 26.1 ensure the confidentiality of sensitive information as appropriate;
- 26.2 be liable for the breach of confidentiality of any such information.

27 This obligation shall survive the termination of the Agreement for as long as the confidential information is held by yourselves.

OUR OBLIGATIONS

27 We shall:

- 27.1 provide you with all the information and services which you need or reasonably request or we require to enable you to undertake all aspects of the delivery of our qualifications which you are approved by us to deliver. This includes the provision of:
 - 27.1.1 policies and procedures, including a sanctions policy;
 - 27.1.2 qualification specifications;
 - 27.1.3 information for tutors and assessors;
 - 27.1.4 a process to be followed in the case of the withdrawal of a qualification or withdrawal of centre approval, which safeguards the interests of learners;
 - 27.1.5 guidance relating to qualification delivery;

- 27.1.6 guidance on request about how best to prevent, investigate and deal with malpractice or maladministration;
 - 27.1.7 an enquiry service for centres and learners;
 - 27.1.8 published information on dates/timescales for the publication of results and issue of certificates.
- 27.2 comply with the requirements of current data protection legislation in relation to personal data supplied by the centre;
- 27.3 not be required to fulfil our obligations under this Agreement where:
- 27.3.1 you have given us information which is wrong or incomplete; or
 - 27.3.2 you have not done what we agreed you would do within this Agreement.

LIMITATION OF LIABILITY

- 28 Nothing in this Agreement shall limit or exclude either party's liability for death or personal injury caused by its negligence, or that of its personnel or subcontractors, fraud or fraudulent misrepresentation, or in any other circumstances where liability may not be limited under any applicable law.
- 29 Nothing in this Agreement shall limit or exclude your liability under clause 35.
- 30 Subject to clause 28, we shall have no liability to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with this Agreement for any indirect loss or damage, costs or expenses whatsoever or howsoever arising out of or in connection with this Agreement.
- 31 Our 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 this Agreement, shall be limited to a maximum sum equal to the charges paid by you under the Agreement within the period of 12 months preceding the event giving rise to the claim.
- 32 Nothing in this Agreement shall exclude or restrict the liability of the centre for any breach of confidentiality by the centre or for any breach by the centre of the data protection legislation in force during the operation of the Agreement.
- 33 The provisions of this clause 28 shall survive the termination of this Agreement however arising.

REMEDIES GENERAL

- 34 Any of our rights or remedies under this Agreement, or by operation of law, may at any time be enforced separately or concurrently.

INDEMNITY

- 35 You shall indemnify us against any liabilities including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses suffered, or incurred, by us, directly, or indirectly, arising from, or in connection with:
- 35.1 any act or omission by you (including, but not limited to, a breach of this Agreement), or your sub-contractors, which places us in breach of any obligation as an awarding organisation, or otherwise to any third party;
 - 35.2 any material developed by you or used by you as an FDQ-approved centre or any material to which you have added our logo and/or name, including any claim for

defamation, malicious falsehood or any allegation that such material is obscene, offensive, illegal and blasphemous or in breach of any other regulation of a statutory or official body.

FORCE MAJEURE

- 36 Neither party shall be in breach of this Agreement if it is prevented from or delayed in carrying on its business by a failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, volcanic ash, earthquake, explosion, terrorist act, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm.
- 37 A party wishing to rely on an event of Force Majeure shall promptly and in any event within 7 calendar days of becoming aware of the same give written notice to the other party of the nature of the event of Force Majeure and shall use its best endeavours to mitigate the effects of such event of Force Majeure.

VARIATION

- 38 No variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties. We shall provide you with one month's written notice of any substantive changes to this Agreement. We reserve the right to amend all other documentation without giving notice to yourselves.

NOTICES

- 39 Notices in relation to this Agreement are to be sent to the addresses provided on page 1. Notices sent to FDQ should be marked for the attention of the Chief Executive Officer.

NO PARTNERSHIP OR AUTHORISATION

- 40 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name of or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power) and neither party shall incur any expenditure in the name of or for the account of the other.

WARRANTY

- 41 Both parties agree that they have the necessary authority to enter into this Agreement.

WAIVER

- 42 A waiver of any right or remedy under this 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 either party to exercise any right or remedy provided under the Centre Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.

RIGHTS OF THIRD PARTIES

- 43 This Agreement does not create any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999).

ENTIRE AGREEMENT

- 44 This Agreement and documents incorporated by reference constitute the entire Agreement between the parties in respect of the delivery of FDQ's qualifications and supersedes all previous Agreements, promises, assurances, warranties, representations and understandings between us, 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 this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement and each party acknowledges that, in entering into this Agreement, it has not relied on any representation or warranty.

SEVERABILITY

- 45 If any part of this Agreement is deemed to be invalid or unenforceable, that part shall be deleted and the remainder of the document shall continue in force.

GOVERNING LAW AND DISPUTE RESOLUTION

- 46 This Agreement and any dispute or claim (including any non-contractual dispute or claim) arising out of or in connection with them or their subject matter, shall be governed by, and construed in accordance with, the laws of England. Subject to the remainder of this clause, the parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Agreement.
- 47 In the event that any claim or dispute arises, the parties shall, following service of written notice by one party on the other, attempt to resolve amicably by way of good faith negotiations and discussions any such dispute or claim as soon as reasonably practicable (and in any event within 10 working days after such notice or by such later date as the parties may otherwise agree in writing). If the parties are unable to resolve the dispute or claim either party may commence proceedings.
- 48 Nothing in this clause shall prevent either party from applying at any time to the court for injunctive relief on the grounds of infringement, or threatened infringement, of the other party's obligations of confidentiality contained in this Agreement or any infringement, or threatened infringement, of the applicant's Intellectual Property Rights.

TERMINATION

- 49 This Agreement can be terminated:
- 49.1 by you or us without giving reasons, in writing, with at least one month's notice;
 - 49.2 by us immediately in certain circumstances such as your insolvency.
- 50 The following apply:
- 50.1 Specified rights and liabilities survive termination.
 - 50.2 The interests of learners shall be protected in accordance with the management of withdrawal as set out in clause 14 above.
 - 50.3 All outstanding charges made to you become immediately payable upon termination.

50.4 You shall cease to use, and destroy or return our materials to us as required.

CENTRE DECLARATION AND AGREEMENT

I, the undersigned, am the accountable person for xxxxxx and authorised by the centre to sign this Agreement on behalf of the centre. By signing this Agreement I understand that:

- the Agreement is enforceable;
- FDQ may issue updates to the Agreement which will become part of the Agreement;
- breaches of the Agreement may result in the imposition of sanctions and ultimately the withdrawal of centre approval;
- I consent to the centre being contacted by FDQ from time to time with marketing and promotional information.

I declare that the information provided by us to you is true and accurate to the best of my knowledge.

The parties hereto have caused this Agreement to be executed on the date of Agreement stated on page 1. The centre agrees to act in accordance with the requirements specified in the whole of this Agreement:

Signed for and on behalf of Brooklands College by:

.....

Name:

Job title:

Date:

Signed for and on behalf of FDQ by:

.....

Name:

Job title:

Date: