



**CONSTRUCTION INDUSTRY TRAINING BOARD
CENTRE AGREEMENT
STANDARD TERMS**

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CONSTRUCTION INDUSTRY TRAINING BOARD (CITB)
CENTRE AGREEMENT
STANDARD TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Agreement means the contract between CITB and the Centre for the delivery of CITB Products including the Form of Agreement for engaging a Centre, these Standard Terms, Product Documentation and all documents and materials referred to in the Form of Agreement.

Appeal the appeal procedure referred to in clause 10.

Application Form the application form submitted to CITB by the Centre and/or any other information provided by the Centre when seeking Centre Approval or Centre Recognition.

Approved includes the terms Accredited, Recognised, Registered.

Authorised Representatives the persons respectively designated as such by CITB and the Centre, the first such persons being set out in the Form of Agreement.

Branding Guidelines the branding guidelines set out or referred to in the Form of Agreement.

Bribery Act the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Candidates includes the term Learner, Applicant, Delegate and Operative wherever they are used in this Agreement. It means an individual who takes a test, assessment, course and/ or qualification for a CITB Product delivered by the Centre.

Centre the party to this Agreement approved or recognised by CITB. Centre includes the terms

Provider and Operator.

Centre Approval	the process through which a Centre wishing to deliver a CITB product is confirmed by CITB as being able to maintain the required quality and standard to deliver CITB Product and is accordingly approved by CITB.
Centre Criteria	the minimum requirements that the Centre must attain and maintain as set out in the Product Documentation.
Centre Personnel	all employees, staff, other workers, agents and consultants of the Centre and of any Peripatetic Staff who are engaged in the provision of the Services from time to time.
Centre Premises	the premises described as “Centre Location” in the Form of Agreement and any site, premises or location used by the Centre for training testing or assessment in association with the delivery of CITB Products under this Agreement. Centre Premises also include any premises or location used by the Centre for undertaking administration and/or storage in pursuance of this Agreement.
Centre Recognition	recognition of the Centre by CITB to record that the Centre has committed itself to maintain the required quality and consistency of providing the Services in accordance with and to the standards required by the Product Documentation.
CITB Policies	those policies created or adopted by CITB from time to time relating to health and safety, security, conduct of suppliers, contractors or individuals, conduct of business or otherwise which CITB requires Centres to comply with and which are notified in writing and/or published on CITB’s website
CITB Product	product(s) owned by CITB set out in a Form of Agreement and which the Centre is approved or recognised to deliver.
Commencement Date	the date of the Agreement as set out in the Form of Agreement or, if later, the date on

which Centre Approval or Centre Registration is confirmed in writing by CITB to the Centre.

Corrective Actions actions to be undertaken by the Centre as a result of breaches of the Scheme Rules. This includes the terms sanction, audit plan.

Data Protection Legislation the Data Protection Act 1998 (DPA), the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003, EU Regulation 2016/679 (“the General Data Protection Regulations”), the Data Protection Act 2018 (DPA18) and any UK or EU statutes, directives, regulations and guidelines amending or replacing these provisions, and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Dispute Resolution Procedure the procedure set out in clause 10.

EIRs the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

Fees the fees, charges and other sums payable by the Centre to CITB under the Form of Agreement.

FOIA the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Force Majeure	any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Centre, the Centre Personnel or any other failure in the Centre's supply chain.
Form of Agreement	the form of agreement agreed between the parties incorporating these Standard Terms.
Information	has the meaning given under section 84 of FOIA.
Insolvency Event	<p>where</p> <ul style="list-style-type: none"> (a) the Centre suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply; (b) the Centre commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Centre with one or more other companies or the solvent reconstruction of the Centre; (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Centre (being a company) other than for the sole purpose of a scheme for a

- solvent amalgamation of the Centre with one or more other companies or the solvent reconstruction of the Centre;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Centre (being a company);
 - (e) the holder of a qualifying floating charge over the assets of the Centre (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (f) a person becomes entitled to appoint a receiver over the assets of the Centre or a receiver is appointed over the assets of the Centre;
 - (g) the Centre (being an individual) is the subject of a bankruptcy petition or order;
 - (h) a creditor or encumbrancer of the Centre attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Centre's assets and such attachment or process is not discharged within 14 days;
 - (i) any event occurs, or proceeding is taken, with respect to the Centre in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (h) (inclusive);

**Intellectual
Property**

any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs,

websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

- Law** any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Centre is bound to comply;
- Listed Trademarks** the UK registered trademarks listed in the Form of Agreement together with any related applications and associated unregistered trademarks.
- Materials** the documentation supplied by CITB for the Centre's use in the provision of the Services, including those made available online or electronically.
- Necessary Consents** all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services including without limitation all appropriate planning permission necessary to operate from all its accredited facilities.
- Personal Data** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Product Documentation or Product Documents	the rules and requirements for the delivery of CITB Products and otherwise as set out or referred to in the Form of Agreement including, as applicable to each CITB Product, the Scheme Booklet, Scheme Rules, or other publications and specifications issued by CITB at any time.
Regulation	the standards, guidelines and other requirements issued by a Regulator from time to time
Regulator	a third party being the regulator of CITB in respect any product which is distributed and delivered as a CITB Product;
Request for Information	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.
Services	delivery of CITB Products by the Centre to Candidates from Centre Premises pursuant to this Agreement.
Term	has the meaning given in clause 21;
Termination Date	the date of expiry or termination of this Agreement.
Working Day	Monday to Friday, excluding any public holidays in England and Wales.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 Any schedule to the Agreement forms part of it and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it

is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

- 1.9 A reference to **writing** or **written** includes e-mail.
- 1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.
- 1.12 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.13 If there is any conflict or inconsistency in or between the documents comprising the Agreement, the order of priority of the documents shall be :
 - 1.13.1 Product Specific Terms; then
 - 1.13.2 CITB Centre Standard Terms ; then
 - 1.13.3 the Form of Agreement.

Commencement and duration

2. PROVISION OF CITB PRODUCT

- 2.1 With effect from the Commencement Date CITB grants the Centre a non-exclusive, revocable licence to use CITB Products for the provision of education and training for persons employed or intending to be employed in the construction industry subject to and in accordance with the provisions of this Agreement, but only for as long as this Agreement continues in force.
- 2.2 The Centre agrees to provide the Services in accordance with the Agreement.
- 2.3 The Services to be provided by the Centre which has been given Centre Approval shall:
 - 2.3.1 where the Centre Premises are in Great Britain, be provided for persons employed or intending to be employed in the construction industry; and
 - 2.3.2 where the Centre Premises are outside Great Britain, be provided for persons employed or intending to be employed in the construction industry in Great Britain.
- 2.4 Where the Centre is located outside Great Britain, CITB may determine not to approve the Centre but instead to recognise the Centre. In this event, CITB is not required, and shall not, approve the Centre, and the Centre itself hereby undertakes and commits to maintain the quality, standards and consistency of providing the

Services in accordance with the Form of Agreement (including the terms) and the Product Documentation.

- 2.5 The Centre shall provide CITB Products, or procure that they are provided:
- 2.5.1 with due care, skill and diligence;
 - 2.5.2 in accordance with all applicable Laws and Regulation; and
 - 2.5.3 in accordance with the reasonable instructions of CITB.
- 2.6 CITB may terminate the agreement with immediate effect by giving written notice to the Centre if the Centre commits a breach of clause 2.5
- 2.7 If the Centre does not comply with the provisions of clause 2.2 in any way, CITB may, without prejudice to its other rights, require the Centre to take, or to comply with, Corrective Actions.

3. DUE DILIGENCE AND WARRANTIES

- 3.1 The Centre acknowledges and confirms that:
- 3.1.1 it has had an opportunity to carry out a thorough due diligence exercise in relation to the CITB Product and has asked CITB all the questions it considers to be relevant for the purpose of establishing whether it is able to deliver the CITB Product in accordance with the terms of this Agreement;
 - 3.1.2 it has received all information requested by it from CITB pursuant to clause 3.1.1 to enable it to determine whether it is able to provide the CITB Product in accordance with the terms of this Agreement;
 - 3.1.3 it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of CITB pursuant to clause 3.1.2;
 - 3.1.4 it has raised all relevant due diligence questions with CITB before the Commencement Date; and
 - 3.1.5 it has entered into this Agreement in reliance on its own due diligence.
- 3.2 Save as provided in this Agreement, no representations, warranties or conditions are given or assumed given by CITB in respect of any information which is provided to the Centre by CITB.
- 3.3 The Centre:
- 3.3.1 warrants and represents that, as at the Commencement Date, all information contained or referred to in the Centre's Application Form remains

true, accurate and not misleading, save as may have been specifically disclosed in writing to CITB prior to execution of the Agreement; and

3.3.2 shall promptly notify CITB in writing any changes in any information provided by it to CITB.

3.4 The Centre warrants and represents that at all times it meets and will meet the Centre Criteria and the Centre Personnel have the necessary skills, expertise and capacity to deliver the Services.

The services

4. CHANGES TO CITB PRODUCTS AND PRODUCT DOCUMENTATION

4.1 CITB may at any time update, amend, alter or supplement CITB Products and/or the Product Documentation (a "Scheme Change") but will have no other liability to the Centre in respect of such change, and the following provisions shall apply:

4.1.1 CITB will publish the changes to the CITB Product and/or the Product Documentation published on its website and where practicable endeavour to notify the Centre of the change.

4.1.2 Where the Scheme Change is a Mandatory Change, being a change where the substantive reason for the change is to comply and/or to ensure future compliance with Law or Regulation, CITB will endeavour to give as much notice as is practicable (up to 30 days' notice) according to the nature of the change and the requirement of the Law or Regulation necessitating the change.

4.1.3 If a Scheme Change will have a material adverse effect on the Centre or its provision of the Services then, unless it is a Mandatory Change, CITB shall provide the Centre with 30 days' notice of the change (a "Change Notice").

4.1.4 If a Centre does not accept the change notified by a Change Notice, the Centre may, before expiry of the Change Notice, give notice to CITB in writing of that fact and this Agreement shall automatically and without requirement for further notice terminate 90 days after the date of the service of that notice by the Centre. The Scheme Change will not apply during the termination notice period.

4.1.5 Unless the Centre serves notice in accordance clause 4.1.4, or the Scheme Change does not have a material adverse effect on the Centre, the Scheme Change will and for all purposes shall be deemed to be effective from the expiry of the Change Notice or,

where a Change Notice is not required to be issued, 30 days after the changes to the CITB website have been made.

4.1.6 The Centre is advised regularly (and in any event not less than once in each month) to check the CITB website for changes to the CITB Products and/or Product Documentation

4.1.7 The Centre shall implement the Scheme Change at its own cost.

4.2 The Centre shall not be permitted to alter CITB Products or any Product Documentation or materials supplied or prescribed by CITB in connection with the Services.

5. COMPLIANCE

5.1 The Centre shall ensure that all Necessary Consents are in place to deliver CITB Products and shall at all times comply with all conditions and other provisions relative to each Necessary Consent and ensure that each Necessary Consent remains current and valid throughout the Term of this Agreement.

5.2 The Centre shall perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

5.2.1 all applicable Law regarding health and safety;

5.2.2 CITB Policies and Necessary Consents; and

5.2.3 all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

5.3 Without limiting the general obligation set out in clause 2, the Centre shall (and shall procure that the Centre Personnel shall):

5.3.1 perform its obligations under this Agreement in accordance with:

(a) all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise); and

(b) CITB's equality and diversity policy as provided to the Centre from time to time;

5.3.2 take all necessary steps, and inform CITB of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation); and

5.3.3 at all times comply with the provisions of the Human Rights Act₁ 1998 in the performance of this

Agreement. The Centre shall also undertake, or refrain from undertaking, such acts as CITB requests so as to enable CITB to comply with its obligations under the Human Rights Act 1998.

6. PREVENTION OF FRAUD

- 6.1 The Centre shall not, and shall procure that Centre Personnel do not, during the term of this Agreement:
 - 6.1.1 defraud, attempt to defraud or conspire to defraud CITB;
 - 6.1.2 act dishonestly in the delivery of CITB Product(s); or
 - 6.1.3 take any actions which, in the reasonable opinion of CITB, bring or are likely to bring CITB's name or reputation into disrepute.
- 6.2 The Centre shall during the term of this Agreement establish maintain and enforce policies and procedures which are adequate to ensure compliance with clause 6.1.
- 6.3 The Centre shall immediately notify CITB in writing if it becomes aware of any breach of clause 6.1 and/or 6.2.
- 6.4 If the Centre is in default under clauses 6.1 and/or 6.2, CITB may by notice:
 - 6.4.1 require the Centre to remove from performance of this Agreement any Centre Personnel whose acts or omissions have caused the default;
 - 6.4.2 immediately suspend this Agreement in accordance with clause 20; or
 - 6.4.3 immediately terminate this Agreement.

Fees and payment

7. PAYMENT

- 7.1 In consideration of the rights granted by CITB under the Agreement, the Centre shall pay the Fees detailed in the Form of Agreement. Unless otherwise specifically stated, all Fees shall be exclusive of Value Added Tax or any other sales tax applicable in any jurisdiction, which shall be payable in addition.
- 7.2 CITB reserves the right to vary the Fees at any time on notice in writing to the Centre. Notice shall be given by CITB amending the Fees schedule or other provisions in the Product Documentation detailing the Fees and may notify the Centre of such change by notice on its website, in writing or by e-mail, or by any other means it deems appropriate.
- 7.3 Approval or registration for any period during the continuance of this Agreement shall be subject to due and prompt payment of Fees.

- 7.4 Unless otherwise expressly stated, refunds will not be provided to the Centre in respect of any Fees paid or payable from time to time.
- 7.5 All payments required to be made by the Centre pursuant to the Agreement shall be made in GBP and shall be subject to, and made in accordance with, the invoicing and payments section in these Standard Terms and/or the Form of Agreement as updated from time to time.
- 7.6 CITB will invoice the Centre for Fees incurred and becoming due from time to time, and the Centre shall pay CITB any sums due under such an invoice no later than a period of 30 days from the date of the invoice. If the Centre defaults in payment, and without prejudice to any other remedy CITB may have, the Centre shall pay interest on any monies overdue for payment at the rate prescribed by the Late Payment of Commercial Debts Regulations 2013 (SI 2013/395) as amended or replaced from time to time.

Contract management

8. QUALITY ASSURANCE (MONITORING AND AUDIT)

- 8.1 CITB will monitor and audit the Centre to quality assure the delivery of CITB Product and performance of this Agreement by the Centre and may, at its absolute discretion, conduct unannounced visits, inspections and mystery shops, in addition to its general rights of audit to uphold the quality of the delivery of CITB Products and to ensure that they are carried out in accordance with the Agreement. ("Quality Assurance Review").
- 8.2 The Centre shall co-operate, and shall procure that the Centre Personnel co-operate, with CITB in carrying out the Quality Assurance Review referred to in clause 8.1 at no additional charge to CITB.
- 8.3 The Centre shall ensure that CITB representatives are permitted access to all parts of Centre Premises, and to Centre Personnel, and that all records relating to provision of the Services are made available for inspection and copying, and that all information reasonably required by CITB is provided promptly on request.
- 8.4 CITB shall act on the outcome(s) of its Quality Assurance Review under this clause 8 and shall take any action as it deems reasonably necessary, including requiring the Centre to take Corrective Action(s), revoking approval or registration of the Centre or declining to renew approval or registration, provided always that CITB acts in accordance with the processes as specified in the Agreement.
- 8.5 CITB retains the right to revoke or suspend approval or registration of the Centre or decline to renew approval or registration:

8.5.1 pending the outcome of an investigation into any serious breach of the Agreement including the Product Documentation; and/or

8.5.2 if the Centre does not fully comply with the requirements of this clause 8.

9. VARIATION

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives). For the avoidance of doubt, this clause does not apply to changes to the CITB Products and Product Documentation, or Fees, which shall automatically be incorporated into this Agreement in accordance with clause 4 or clause 7 (as the case may be).

10. APPEALS AND DISPUTE RESOLUTION

10.1 Where and in so far as the Product Documentation also includes an Appeal procedure then, in relation to any decision made by CITB to which that Appeal procedure applies, if the Centre disagrees with such decision it may appeal that decision in the manner set out in the Appeal procedure but not otherwise.

10.2 If a dispute to which clause 10.1 above does not apply arises out of or in connection with this Agreement or the performance, validity or enforceability of it (**Dispute**) then the parties shall follow the procedure set out in this clause:

10.2.1 either party shall give to the other written notice of the Dispute within 30 days of the event or action giving rise to the dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Representatives shall attempt promptly and in good faith to resolve the Dispute;

10.2.2 if the Authorised Representatives are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to CITB's Delivery and Customer Engagement Director or his/her nominated representative (who shall have authority to resolve the dispute) and the Centre's Managing Director or his/her nominated representative (who shall have authority to resolve the dispute) who shall attempt in good faith to resolve it.

11. SUB-CONTRACTING AND ASSIGNMENT

11.1 This agreement is personal to the Centre, and the Centre shall not assign, transfer, subcontract or otherwise dispose of any or all of its

rights and obligations under this Agreement, nor shall it attempt to do so, without the prior written consent of CITB.

- 11.2 CITB shall be entitled to assign its rights and transfer its obligations under the Agreement without the prior written consent of the Centre.

12. INDEMNITIES

- 12.1 The Centre shall indemnify and keep indemnified CITB against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation) and all penalties, legal costs and other reasonable professional costs and expenses suffered or incurred by CITB as a result or in connection with any claim made against CITB by a third party arising out of, or in connection with, the delivery and/or supply of CITB Product, save to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Agreement by CITB.
- 12.2 The Centre shall indemnify CITB in respect of all costs, losses and expenses incurred by CITB in providing (or procuring the provision of) training, assessment and testing of Candidates and reissuing confirmation of such training, assessment and tests, where this is required by reason of the Centre's failure to uphold the standards required by this Agreement or by reason of the Centre's breach of any provision of this Agreement.
- 12.3 Without limiting the provisions of clause 13.1 above, CITB losses include the payment (whether to the Centre or to a 3rd party) of a grant which would not otherwise have been payable in respect of a Course where such payment occurred as a result of the Centre's breach of this Agreement.

13. LIMITATION OF LIABILITY

- 13.1 Subject to clause 13.2:
- 13.1.1 CITB shall not be liable to the Centre, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this agreement, for loss of profits, loss of sales or business, loss of agreements or contracts, loss of anticipated savings, loss of or damage to goodwill, loss of use or corruption of software, data or information, any indirect or consequential loss; and
- 13.1.2 CITB's maximum aggregate liability to the Centre for all claims arising under the Agreement in any period of 12 months shall not exceed the amount paid by the Centre in the 12 months preceding the

event giving rise to the claim.

13.2 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for:

13.2.1 death or personal injury caused by its negligence; or

13.2.2 breach of any obligation as to title implied by statute
13.2.3 any other act or omission, liability for which may not be limited under any applicable law.

13.3 The parties acknowledge and agree that the limitations contained in this clause are reasonable in light of all the circumstances.

14. INSURANCE

14.1 The Centre shall at its own cost effect and maintain with a reputable insurance company the policies of insurance providing as a minimum the levels of cover set out in the Form of Agreement (the Required Insurance).

14.2 The Centre shall give CITB, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

14.3 If the Centre fails to give effect to and maintain the Required Insurances, CITB may make reasonable alternative arrangements to protect its interests and shall be entitled to recover the costs of such arrangements from the Centre.

14.4 The terms of any insurance or the amount of cover shall not relieve the Centre of any liabilities under the Agreement.

14.5 The Centre shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the Agreement.

Information

15. FREEDOM OF INFORMATION

15.1 The Centre acknowledges that CITB is subject to the requirements of the FOIA and the EIRs. The Centre shall:

15.1.1 provide all necessary assistance and cooperation as reasonably requested by CITB to enable CITB to comply with its obligations under the FOIA and EIRs;

15.1.2 transfer to CITB all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

15.1.3 provide CITB with a copy of all Information belonging

to CITB requested in the Request For Information which is in its possession or control in the form that CITB requires within 5 Working Days (or such other period as CITB may reasonably specify) of CITB's request for such Information; and

15.1.4 not respond directly to a Request For Information unless authorised in writing to do so by CITB.

15.2 The Centre acknowledges that CITB may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Centre. CITB shall take reasonable steps to notify the Centre of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) CITB shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

16. DATA PROTECTION

16.1 The Parties will disclose the Personal Data described in this Agreement to each other to process strictly for the following purposes (or as otherwise agreed in writing by the parties):

16.1.1 CITB will use the Personal Data the Centre provides as necessary for the performance of tasks carried out in the public interest and ancillary purposes as permitted by law, including for the purposes of administration, Candidate registration, the recording on the CITB System, statistical analysis, customer services, the prevention of fraud and keeping the Centre and/ or (if the Candidate so consents) the Candidate informed of CITB's products and services and those of third parties which CITB thinks may be of interest.

16.1.2 The Centre will use the Personal Data the CITB provides to provide the Courses in the manner set out in this Agreement.

16.2 The Parties acknowledge that each Party is a separate and independent controller of the Personal Data shared under this Agreement. In no event will the parties process the Data as joint controllers.

16.3 Each party shall be individually and separately responsible for

complying with the obligations that apply to it as a controller under Data Protection Legislation which arise in connection with the Agreement, including all necessary transparency and lawfulness requirements.

- 16.4 The Centre shall not process any Personal Data (nor permit any Personal Data to be processed) in a territory outside of the European Economic Area ("EEA") unless it has taken such measures as are necessary to ensure the transfer is in compliance with Data Protection Legislation.
- 16.5 The Centre shall provide CITB with such information as CITB may reasonably require to satisfy itself that the Centre is complying with its obligations under Data Protection Legislation.
- 16.6 The Centre shall (and shall procure that any of its Centre Personnel involved in the provision of the Agreement shall) comply with the provisions of the User Agreement.
- 16.7 The Centre shall implement technical and organisational measures to protect the Data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorised disclosure of, or access to the Data (a "**Security Incident**").
- 16.8 The Centre shall promptly (and in any event within twenty-four (24) hours) notify CITB of any Security Incident. Such notification will describe the nature of the Security Incident including, where possible, the categories and approximate number of Personal Data records concerned.
- 16.9 In the event that either Party receives any correspondence, enquiry or complaint from a data subject, regulCentrer or other third party ("**Correspondence**") related to Personal Data shared under this Agreement it shall promptly and without undue delay inform the other Party giving full details of the same, and the Parties shall cooperate reasonably and in good faith in order to respond to the Correspondence in accordance with any requirements under Data Protection Legislation.
- 16.10 Where the Centre provides CITB with an individual's Personal Data, the Centre warrants and represents that it is with the individual's knowledge and (where required) consent and that it has informed them of CITB's identity and the purposes for which the personal data will be processed and shall maintain evidence of all consents provided.
- 16.11 If a Candidate provides consent (in accordance with the provisions of clauses 17.10 above) but later informs the Centre that they wish to withdraw and/or amend their consent, the Centre will promptly (and in any event within 2 Working Days) notify CITB of the same

and follow any reasonable instructions provided by CITB in order to give effect to the Candidate's wishes.

- 16.12 The Centre shall provide evidence of the consent, together with any supporting information required in order to satisfy the Information Commissioner's requirements in relation to evidence of consent, to CITB and within the reasonable timeframe stipulated by CITB.
- 16.13 On expiry or termination of this Agreement for any reason, the Centre will provide CITB with a copy of all consents.
- 16.14 The Centre shall fully indemnify and keep indemnified CITB, its officers, servants or agents against the costs of dealing with any claims, made in respect of information subject to the Data Protection Legislation, which claims would not have arisen but for the act, omission, or negligence of the Centre.
- 16.15 The provisions of this clause shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

17. CONFIDENTIALITY

- 17.1 Subject to clause 17.1, the parties shall keep confidential all matters relating to this Agreement and shall use all reasonable endeavours to prevent their Representatives from making any disclosure to any person of any matters relating hereto.
- 17.2 Clause 17.1 shall not apply to any disclosure of information:
 - 17.2.1 required by any applicable law, provided that clause 15.2 shall apply to any disclosures required under the FOIA or the EIRs;
 - 17.2.2 that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Agreement;
 - 17.2.3 where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 17.1;
 - 17.2.4 by CITB of any document to which it is a party and which the parties to this Agreement have agreed contains no commercially sensitive information;
 - 17.2.5 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
 - 17.2.6 by CITB to any other department, office or agency of the Government; and
 - 17.2.7 by CITB relating to this Agreement and in respect of which the Centre has given its prior written consent to disclosure.

- 17.3 On or before the Termination Date the Centre shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of CITB's employees, rate-payers or service users, are delivered up to CITB or securely destroyed.

18. INTELLECTUAL PROPERTY

- 18.1 The Materials are and shall remain the property of CITB and shall not be:
- 18.1.1 reproduced or disseminated other than as expressly permitted in this Agreement; or
 - 18.1.2 used either for the purpose of developing any further materials or any other purposes whatsoever without prior consultation with and the written permission of CITB.
- 18.2 CITB grants the Centre a non-exclusive, non-transferable licence to use the Intellectual Property rights in the Materials during the Term in Great Britain or (if applicable) in the country in which the Centre Premises are located solely for the purpose of performing the Services in accordance with this Agreement.
- 18.3 The Centre shall notify CITB immediately if it becomes aware of any unauthorised use of the whole or any part of CITB Intellectual Property.
- 18.4 CITB shall have no liability for any claim resulting from the use of the Materials in combination with any materials not supplied (or approved) by CITB or any variation of any item of the Materials by a party other than CITB or its authorised agent.
- 18.5 CITB shall have no liability for any claim resulting from the use of the Materials (whether or not in combination with any other materials) outside of Great Britain.
- 18.6 CITB does not give any warranty, representation or undertaking that use of the Materials or the exercise of any of the rights granted under this Agreement will not infringe any other Intellectual Property Rights or other rights of any person.
- 18.7 The Centre shall indemnify CITB against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property right by the availability of the Services, except to the extent that they have been caused by or contributed to by CITB's acts or omissions.

19. TRADE MARK LICENCE

- 19.1 CITB grants to the Centre a non-exclusive, non-transferable licence to use in Great Britain the Listed Trade Marks in relation to delivery

of the Services, subject to and in accordance with the provisions of this Agreement, for the Term of this Agreement. For the avoidance of doubt, the licence granted in this clause 19.1 cannot be sub-licensed.

19.2 CITB warrants that it is the proprietor of the Listed Trade Marks and is not aware that the Listed Trade Marks or the use of them infringes, or will infringe the rights of any third party provided that CITB shall have no liability for any claim resulting from the use of the Listed Trade Mark outside of Great Britain.

19.3 The Centre:

19.3.1 shall comply with the Branding Guidelines at all times;

19.3.2 shall on all authorised copies made of the Materials, faithfully reproduce the copyright symbol, legend or clause or, in the absence of the same, insert the Listed Trade Mark;

19.3.3 will not alter, obscure, remove, conceal or otherwise interfere with any marking on the Materials which refers to CITB as author or developer of Materials or otherwise refers to CITB's copyright or other Intellectual Property rights in the Materials; and

19.3.4 will immediately bring to the attention of CITB any improper or wrongful use of CITB's Listed Trade Marks, emblems, designs, models or other similar industrial, intellectual or commercial property rights which come to the notice of the Centre and will in the performance of its duties under this Agreement use every effort to safeguard the property rights and interests of CITB and take all steps required by CITB to defend such rights.

Suspension

20. SUSPENSION

20.1 CITB may suspend all or any of the rights granted to the Centre under this Agreement:

20.1.1 in accordance with this clause 20;

20.1.2 in accordance with the Product Documentation;

20.1.3 where in the opinion of CITB the Centre is causing concern in its ability to maintain a satisfactory standard of services to Candidates;

20.1.4 where in the opinion of CITB the Centre failed promptly to take any of the Corrective Actions;

20.1.5 where the Centre, notwithstanding payment of Fees, does not in any period of 12 months deliver

any CITB Products;

- 20.1.6 Where CITB becomes entitled under any other term of this Agreement, except termination under clause 23, to terminate this Agreement, whether with or without notice.
 - 20.1.7 if under any other Centre Agreement between CITB and the Centre delivery of CITB products under that agreement is suspended or terminated for any reason; or
 - 20.1.8 if under a Centre Agreement between CITB and any company in the same group of companies as the Centre delivery of CITB products is suspended or terminated for any reason.
- 20.2 Suspension, other than suspension under clause 20.1.6 will be lifted at such time as CITB is fully satisfied that the actions resulting from an investigation instigated in relation to clause 20.1 have been met.
- 20.3 If this Agreement is suspended by CITB for cause, such suspension shall be at no loss or cost to CITB and the Centre hereby indemnifies CITB against any such losses or costs which CITB may suffer as a result of any such suspension for cause.

Term and Termination

21. TERM

- 21.1 The Agreement shall come into effect on the Commencement Date and shall continue unless and until terminate by either party in accordance with the provisions of this Agreement.

22. TERMINATION

- 22.1 CITB may terminate this Agreement in whole or part with immediate effect by the service of written notice on the Centre in the following circumstances:
 - 22.1.1 if the Centre is in breach of any material obligation under this Agreement provided that if the breach is capable of remedy, CITB may only terminate this Agreement under this clause 22.1 if the Centre has failed to remedy such breach within 28 days of receipt of notice from CITB requiring it to do so;
 - 22.1.2 if a Centre fails to pay any amount due under this Agreement on the due date for payment;
 - 22.1.3 the Centre repeatedly breaches the terms of this Agreement or persistently or repeatedly breaches the same term of this Agreement notwithstanding that any one breach may not of itself be a breach of a material obligation;

- 22.1.4 any action by the Centre, in relation to the Agreement which, in the reasonable opinion of CITB's Authorised Representative, has or may cause significant harm to the reputation of CITB;
 - 22.1.5 CITB has reasonable grounds for suspecting fraud on the part of the Centre, Centre Personnel or Candidates;
 - 22.1.6 a failure to meet the requirements of CITB to prevent or to remedy malpractice by the Centre or any of the Centre Personnel;
 - 22.1.7 if there is an Insolvency Event;
 - 22.1.8 if there is a change of control of the Centre within the meaning of section 1124 of the Corporation Tax Act 2010;
 - 22.1.9 the Centre (being an individual) dies or, by reason of illness or incapacity (whether mental or physical) is incapable of managing his own affairs or becomes a patient under any mental health legislation;
 - 22.1.10 the Centre suspends or ceases, or threatens to suspend or cease, carrying on delivery of CITB Products pursuant to the Form of Agreement;
 - 22.1.11 if any other contract between CITB and the Centre for the delivery of CITB products is terminated for any reason; or
 - 22.1.12 if any contract between CITB and any company in the same group of companies as the Centre for the delivery of CITB products is terminated for any reason.
- 22.2 If this Agreement is terminated by CITB otherwise than pursuant to clause 23 such termination shall be at no loss or cost to the CITB and the Centre hereby indemnifies CITB against any such losses or costs which CITB may suffer as a result of any such termination for cause.

23. TERMINATION ON NOTICE

Without affecting any other right or remedy available to it, either party may terminate this Agreement at any time by giving 3 months' written notice to the other party. The party exercising its right under this clause shall not incur any liability to the other party by reason thereof.

24. FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, and in such circumstances the

affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that the period of delay or non-performance continues for 6 months, the party not affected may terminate this Agreement by giving 14 days' written notice to the other party.

25. PREVENTION OF CORRUPTION AND CONFLICTS

25.1 The Centre shall and shall procure that person associated with it or other persons who are performing services or providing goods in connection with this Agreement shall:

25.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);

25.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

25.1.3 comply with CITB, Anti-bribery, Business Ethics and Anti-fraud Policies (available upon request) and in each case as CITB may update them from time to time (**Relevant Policies**);

25.1.4 have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 25.1.2, and will enforce them where appropriate;

25.1.5 promptly report to CITB any request or demand for any undue financial or other advantage of any kind received by the Centre in connection with the performance of this Agreement;

25.1.6 immediately notify CITB (in writing) if a foreign public official becomes an officer or employee of the Centre or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as officers or employees at the date of this Agreement);

25.1.7 annually certify to CITB in writing signed by an officer of the Centre, compliance with this clause 25 by the Centre and all persons associated with it under clause

25.2. The Centre shall provide such supporting evidence of compliance as CITB may reasonably request.

25.2 The Centre shall ensure that any person associated with the Centre

who is performing services or providing goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 25 (**Relevant Terms**). The Centre shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to CITB for any breach by such persons of any of the Relevant Terms.

25.3 Breach of this clause 25 shall be deemed a material breach entitling CITB to terminate this Agreement.

25.4 For the purpose of this clause 25, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 25, a person associated with the Centre includes but is not limited to any subcontractor of CITB.

26. CONSEQUENCES OF TERMINATION

26.1 On the expiry of the Term or if this Agreement is terminated in whole or in part for any reason the Centre shall:

26.1.1 immediately cease performance of the Services;

26.1.2 return all Materials, any other materials bearing CITB's name and/or trade mark and/or logo; and

26.1.3 provide CITB with details of all future bookings by Candidates to receive the Services, including contact details for all Candidates (if instructed by CITB to do so) and CITB may require these details to be provided before termination (where notice to terminate has been served by either party);

26.1.4 immediately cease to display or otherwise use any Intellectual Property Rights or systems connected with CITB Product and all rights granted by this Agreement shall automatically terminate.

26.2 On termination of this Agreement (or where reasonably so required by CITB before such termination) the Centre shall procure that all data and other material belonging to CITB (and all media of any nature containing information and data belonging to CITB or relating to the Services), shall be delivered to CITB forthwith and the Centre shall certify full compliance with this clause.

26.3 CITB may at any time and from time to time within 12 months following termination or expiry of this Agreement exercise its rights set out in clause 8 (Monitoring and Audit).

- 26.4 Termination howsoever arising shall be without prejudice the accrued rights of the parties as at termination.
- 26.5 The provisions of clause 6(Prevention of fraud), clause 12 (Indemnities), clause 14 (Insurance), clause 15 (Freedom of Information), clause 16 (Data Protection), clause 17 (Confidentiality), clause 22 (Termination) and this clause 26 (Consequences of termination) shall survive termination or expiry of this Agreement.

General provisions

27. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

28. SEVERABILITY

28.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

28.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

29. PARTNERSHIP OR AGENCY

Nothing in this 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.

30. THIRD PARTY RIGHTS

Except as expressly provided in the Product Documentation, no one other than a party to this Agreement shall have any right to enforce any of its terms.

31. PUBLICITY

31.1 Save as provided in clause 32, the Centre shall not make, or permit any person to make:

31.1.1 any press announcements or publicise this

Agreement or its contents in any way; or

31.1.2 use CITB's name or logo in any promotion or marketing or announcement of orders.

32. REFERENCES TO CITB

- 32.1 CITB may develop and provide from time to time at no charge to the Centre, advertising and promotional material which the Centre may use in marketing CITB Product.
- 32.2 The Centre, when marketing CITB Product, may only use or publish those advertising materials provided by or on behalf of or approved in advance by CITB in writing and which comply with the Branding Guidelines.
- 32.3 CITB reserves the right at any time to withdraw its approval of any such materials and the Centre agrees to cease use of such materials with immediate effect.
- 32.4 CITB reserves the rights to seek criminal prosecution of any Centre who seeks to use CITB's name, logo, material or trademarks for unlawful purposes and, where appropriate, will take action within the civil courts against a Centre using CITB's name, logo, material or trademarks for unauthorised or unlawful purposes.

33. NOTICES

- 33.1 Any notice given to a party under or in connection with this Agreement shall be in writing and shall be:
 - 33.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - 33.1.2 sent by email to the individual identified by the Centre as the named contact.
- 33.2 Any notice shall be deemed to have been received:
 - 33.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - 33.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or
 - 33.2.3 if sent by email, at 9.00 am on the next Working Day after transmission.
- 33.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 33.4 Any notice to be served under this Agreement shall be marked for

the attention of the Authorised Representative of the party on whom the notice is being served

34. FURTHER ASSURANCES

Each party shall do all things and execute all further documents necessary to give full effect to this Agreement.

35. SET OFF

Whenever under this Agreement, any sum of money shall be recoverable from or payable by the Centre, the same may be deducted from any sum then due or which at any time thereafter may become due to the Centre under this or any contract with CITB. Exercise by CITB of its rights under this clause 40 shall be without prejudice to any other rights or remedies available to CITB under the Agreement or otherwise.

36. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

37. JURISDICTION

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).