

# The Imperial Society of Teachers of Dancing (ISTD)

## Centre Agreement

Last updated: September 2021

### Introduction

- These Conditions of Approval – also known as the Centre Agreement (“**Agreement**”) – must be adhered to by all Approved Dance Centres (ADCs) in order to deliver ISTD’s Qualifications.
- By submitting an Application for Centre Approval to become an ADC, the Centre has confirmed and undertaken to be bound by the provisions of the Agreement.
- The Centre should also refer to the Approved Dance Centre Handbook for further information about the approval process and delivery of ISTD programmes and assessments.

### Content of conditions

- As the Agreement is quite detailed, here is an overview of the content of the conditions, together with signposts to the Handbook where relevant, for your ease of navigation:

Condition	Area	What’s included
1	<b>Definitions and interpretation</b>	Schedule 1 sets out the definitions used in the Agreement.
2	<b>Status of agreement</b>	This condition clarifies the basics about the Agreement, including what documents make it up.
3	<b>Centre general obligations</b>	This condition sets out the key overarching obligations as an ADC, such as ensuring compliance with the relevant rules, and keeping ISTD informed.
4	<b>Identification and management of risk</b>	This condition sets out the key things ADCs need to do to identify and effectively deal with the relevant risks, including having appropriate policies and procedures in place, and informing ISTD when certain incidents occur.
5	<b>Conflicts of interests</b>	This condition sets out what ADCs need to do

		to manage conflicts of interest, such as adopting and complying with an appropriate conflict of interest policy, and co-operating with ISTD in the event that something goes wrong.
6	<b>Resources</b>	<p>This condition sets out how ADCs are expected to operate, such as a requirement to maintain an appropriate workforce and levels of financial resources.</p> <p>Section 5.1 of the Handbook provides further information about the specific roles within a Centre Programme Team.</p>
7	<b>Malpractice and Maladministration</b>	<p>This condition sets out the steps ADCs should put in place to aim to identify, and reduce the risk of, incidents of malpractice or maladministration.</p> <p>Further information can be found at section 7.10 of the Handbook.</p>
8	<b>Registration, Assessments and Moderation</b>	<p>This condition sets out the obligations upon ADCs relating to the registration of learners and the delivery of qualifications.</p> <p>Further information about the moderation process can be found at sections 5.4 and 7.3 of the Handbook, and about the registration process at section 6.1. Assessment guidance can be found in section 7 of the Handbook.</p>
9	<b>Security</b>	<p>This condition obliges ADCs to comply with ISTD's security requirements (as notified to ADCs or published by ISTD from time to time) e.g. the storage of examination/assessment papers.</p>
10	<b>Restriction on promotion</b>	<p>This condition sets out some basic limitations around promoting ISTD qualifications.</p>
11	<b>Review, monitoring and complaints</b>	<p>This condition sets out the requirements on ADCs to ensure that all aspects of qualification delivery are subject to monitoring and review, and to provide the results of such monitoring/review to ISTD upon request. It also requires an ADC to operate an effective and</p>

		appropriate complaints and appeals process.
12	<b>Withdrawal</b>	<p>This condition sets out what happens if approval is withdrawn from an ADC. This should be read in conjunction with condition 23 and 24.</p> <p>Further information can be found at section 4.9 of the Handbook.</p>
13	<b>Quality assurance</b>	<p>This condition sets out the commitments from ISTD to ADCs to safeguard quality assurance.</p> <p>Further information can be found at section 4.1 of the Handbook.</p>
14	<b>Equality and diversity</b>	This condition sets out the statutory duty upon ISTD to comply with the Equality Act 2010 and the obligations upon an ADC to that end.
15	<b>Anti-bribery and anti-corruption</b>	This condition requires ADCs to comply with relevant anti-bribery and anti-corruption laws.
16	<b>Data Protection</b>	This condition sets out the data protection requirements for ADCs and ISTD. The ADC and ISTD will each act as a controller with respect to any personal data relating to learners exchanged between them. Where the parties are to act as joint controllers, the additional terms contained in Schedule 3 will apply.
17	<b>Intellectual Property</b>	This condition sets out how an ADC may use ISTD logo and any other intellectual property belonging to ISTD.
18	<b>Database of Learners</b>	This condition sets out the understanding between the ADC and ISTD in respect of the data held in a database of learners created by the ADC.
19	<b>Confidentiality</b>	This condition sets out the confidentiality obligations for ADCs and ISTD.
20	<b>Retention of records</b>	This condition sets out ADCs' obligations to maintain and retain records. Further information can be found at section 7.9 of the Handbook.
21	<b>Fees and payment</b>	This condition sets out the detail around fees and payment.
22	<b>Limitation of liability and indemnity</b>	This condition covers the parties' potential liability under the Agreement, including any

		indemnities.
23	<b>Termination</b>	<p>This condition sets out how either ISTD or an ADC may terminate the Agreement (and consequently the approval). Either side may terminate with three month's written notice, and the condition also sets out the circumstances where ISTD may terminate the Agreement straight away, e.g. for breach.</p> <p>This condition also reserves the right to ISTD to suspend or restrict the approval in certain circumstances e.g. while investigating the conduct of an ADC.</p> <p>Further information can be found at section 4.9 of the Handbook.</p>
24	<b>Consequences of suspension or termination</b>	<p>This condition sets out what happens in the event that the Agreement is terminated, or where approval has been suspended or has expired, or during any investigation conducted by ISTD. This should be read in conjunction with condition 12.</p> <p>Further information can be found at section 4.9 of the Handbook.</p>
25	<b>Subcontracting and assignment</b>	This condition sets out how the Agreement may be assigned/transferred/charged/sub-contracted etc.
26	<b>General</b>	This condition includes some standard contractual provisions often found at the end of a contract.
27	<b>Governing Law and Dispute Resolution Procedure</b>	This condition includes a procedure to follow in the event of a dispute.

## Schedules

Schedule	Overview	What's included
1	<b>Interpretation</b>	This schedule sets out the definitions used in the Agreement, and rules of interpretation.
2	<b>Joint Controller Terms</b>	This schedule contains some data protection provisions, explaining how Learner Personal Data may be disclosed or received.

**By submitting an Application for Centre Approval, the Centre has confirmed and undertaken to be bound by the provisions of this Agreement (in particular the Conditions of Approval below).**

## Conditions of Approval

### 1. Definitions and interpretation

1.1 The defined terms and rules of interpretation set out in Schedule 1 apply to this Agreement.

### 2. Status

2.1 Application for Centre Approval shall be treated as an offer to enter into a Centre Agreement with ISTD, but shall not be binding on ISTD.

2.2 The Agreement shall come into effect and become binding and enforceable on both parties on the Commencement Date and shall continue, unless terminated earlier in accordance with the provisions of this Agreement.

2.3 From the Commencement Date, or such other date as specified in the Approval Conditions (if any), the Centre shall be entitled to deliver the Qualifications on the terms of, and subject to, the terms of the Agreement.

2.4 This Agreement, together with the Application for Centre Approval, any Application for Qualification Approval, any Special Conditions and ISTD Policies and Procedures constitute the terms of the Agreement, to the exclusion of any other terms that the Centre seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 If there is an inconsistency between the provisions of this Agreement, the Application for Centre Approval, Application for Qualification Approval, Special Conditions and/or any of ISTD Policies and Procedures, the following order of priority shall apply:

- (i) the provisions of this Agreement;
- (ii) any Special Conditions;
- (iii) ISTD Policies and Procedures;
- (iv) Application for Qualification Approval; and
- (v) Application for Centre Approval.

2.6 The Centre waives any right it might otherwise have to rely on any term endorsed upon, delivered with, or contained in any documents of the Centre that is inconsistent with the Agreement.

### 3. Centre General obligations

3.1 The Centre shall at all times:

3.1.1 take all reasonable steps to protect the interests of Learners in connection with the Delivery of Qualifications;

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

- 3.1.3 comply with all laws and regulations relating to its activities under the Agreement;
- 3.1.4 comply at all times with ISTD Policies and Procedures;
- 3.1.5 promptly comply with any requests for information (Learner and Centre data) or documents made by ISTD or the Regulator(s);
- 3.1.6 provide assistance, on request, to ISTD in carrying out any of its monitoring activities and co-operate with ISTD in all matters related to the Delivery of Qualifications, including by allowing ISTD Quality Assurance Department access to any Centre's offices and teaching/examination/assessment sites and its Workforce;
- 3.1.7 provide all reasonable assistance to Learners and ISTD in respect of any transfer of Learners to a different Centre;
- 3.1.8 assist the Regulator(s) and any other relevant regulatory bodies in any investigations made for the purposes of performing regulatory functions;
- 3.1.9 comply with directions and/or sanctions imposed by ISTD in accordance with this Agreement;
- 3.1.10 promptly notify ISTD if it becomes subject to a Change of Control, insolvency proceedings, is unable to pay its debts, stops trading or commences a winding down process;
- 3.1.11 promptly notify ISTD of:
  - A) any changes in the laws, regulations or other applicable laws in the Territory (national or international); and/or
  - B) if it becomes subject to any enforcement or regulatory proceedings in the Territory (national or international),that may affect its ability to Deliver the Qualifications in accordance with the Agreement; and
- 3.1.12 comply with, and ensure that its Workforce complies with, any terms of use of the Systems.
- 3.2 The Centre shall be solely responsible for obtaining (at its own cost) any licences or permits necessary for the Delivery of Qualifications.
- 3.3 The Centre shall inform ISTD as soon as reasonably practicable if it is, or is likely to become, unable to Deliver any or all of the Qualifications in accordance with the terms of the Agreement, in which case ISTD shall be entitled, without prejudice to ISTD's other rights and remedies under this Agreement, to modify, suspend or withdraw the Centre's Approval.
- 3.4 The Centre shall Deliver the Qualifications only at the teaching/examination/assessment venues included in the Approval, as may be added or removed in accordance with the provisions of the Agreement.

- 3.5 The Centre shall be responsible for all Delivery locations it uses and ISTD reserves the right to visit any at any time in accordance with this Agreement.
- 3.6 In the event the Centre wishes to modify, add or withdraw certain or all of the Qualifications from its Approval, or otherwise vary the Special Conditions (including, but not limited to, by adding or removing an examination/assessment venue), it shall submit an application to ISTD, in the form prescribed by ISTD from time to time. Approval of any such application shall be at ISTD's sole discretion.

#### 4. Identification and management of risk

##### 4.1 The Centre shall:

- 4.1.1 take all reasonable steps to ensure that it does not render ISTD unsuitable to continue to award its qualifications or perform its functions as an Awarding Organisation/Body or registered charity, 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 provide a copy of the policies, procedures and training referred to in condition 4.1.2 above to ISTD and make any amendments to the policies, procedures and training reasonably requested by ISTD;
- 4.1.3 take all reasonable steps to identify the risk of incidents which could have an Adverse Effect and/or be a Serious Incident;
- 4.1.4 notify ISTD, as soon as reasonably practicable upon becoming aware, of:
- (a) the risk of any incident which could have an Adverse Effect and/or be a Serious Incident;
  - (b) acts, omissions or incidents which have, or are likely to have, an Adverse Effect and/or be a Serious Incident;
  - (c) any breaches of ISTD Policies and Procedures; and/or
  - (d) any other act, omission or incident which may, or is likely to, damage the reputation of ISTD and/or any of the Qualifications;
- 4.1.5 following notification under condition 4.1.4, take all reasonable steps, in consultation with ISTD, to:
- (a) prevent the act, omission or incident from occurring or, where it cannot be prevented, reduce the risk of it occurring;
  - (b) prevent or mitigate any Adverse Effect as far as possible;
  - (c) prioritise (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**

### **5.1 The Centre shall:**

5.1.1 establish, maintain, and comply with an appropriate conflict of interest policy in compliance with any relevant ISTD Policies and Procedures;

5.1.2 take all reasonable steps to avoid any conflict of interest relating to the Centre's obligations under this Agreement;

5.1.3 in circumstances where having taken all such reasonable steps, a conflict cannot be avoided, identify, record, monitor and properly manage:

- (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;

5.1.4 notify ISTD promptly of any conflicts of interest which relate to it, including personal interests;

5.1.5 take all reasonable steps to ensure that no conflict of interest which relates to it has an Adverse Effect.

5.2 In any case where a conflict of interest nonetheless results in an Adverse Effect, cooperate with any action taken by ISTD that seeks to mitigate the Adverse Effect as far as possible and correct it.

## **6. Resources**

### **6.1 The Centre shall:**

6.1.1 retain a Workforce of appropriate size and competence to undertake the Delivery of the Qualifications, including sufficient managerial and other resources to enable it to effectively and efficiently deliver the Qualifications;

6.1.2 notify ISTD promptly of any change of details of its Key Personnel including assessors and those responsible for internal quality assurance;

6.1.3 provide its Workforce with appropriate training and professional development to ensure maintenance and development of an appropriate level of skills and competence, in accordance with good industry practice and ISTD's directions from time to time, in connection with the Delivery of Qualifications;

6.1.4 maintain appropriate finances to support the Delivery of Qualifications in accordance with the Agreement;

6.1.5 have in place at all times an up to date disaster recovery and business continuity plan to protect the interests of Learners; and

6.1.6 regularly monitor the physical and human resources it requires in order to deliver the Qualifications to the Learners in accordance with this Agreement.

## **7. Malpractice and Maladministration**

### **7.1 The Centre shall:**

- 7.1.1 adopt a policy and procedure, complementary to ISTD's Policies and Procedures on malpractice and maladministration, that allows for the identification of, and aims to reduce, the risk and incidents of, malpractice or maladministration;
- 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 ISTD of such risks and incidents as soon as practicable;
- 7.1.4 cooperate with and assist ISTD 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;
  - (b) cooperate with ISTD in respect of any action taken by ISTD against the Centre and/or any individuals responsible for such incidents; and
  - (c) put in place further arrangements for preventing and investigating malpractice or maladministration and ensure these are adequate/effective.

## **8. Registration, Assessments and Moderation**

### **8.1 The Centre shall:**

- 8.1.1 use its best endeavours to verify that the identity and information provided by the Learners upon registration is accurate and complete;
- 8.1.2 register Learners promptly upon enrolment with the Centre;
- 8.1.3 only register Learners for Qualifications for whom there is reasonable expectation of completion and achievement;
- 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 ISTD from time to time;
- 8.1.6 support the delivery of Qualifications and provide appropriate induction and support to Learners, in accordance with ISTD Policies and Procedures and Qualification requirements;

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 ISTD Policies and Procedures;

8.1.8 ensure that arrangements are in place to confirm Learners' identities 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 ISTD Policies and Procedures or otherwise prescribed by ISTD, including but not limited to ISTD Policies and Procedures in respect of CASS;
- (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 ISTD Policies and Procedures require or allow otherwise); and
- (d) the criteria against which Learners' performance will be differentiated are accurately and consistently applied by the Centre;

8.1.10 ensure that the security of assessment materials is maintained at all times and is not put at risk;

8.1.11 take all reasonable steps to ensure that the Centre and no person currently/previously connected to it discloses, or causes to be disclosed, confidential information about any assessment or the content of any assessment materials. The provisions of condition 19 (Confidentiality) shall apply to any such Confidential Information; and

8.1.12 comply with any instructions issued by ISTD in respect of the marking of evidence generated by a Learner during an assessment.

8.2 The Centre shall not permit any part of the assessment of a Learner (including by way of moderation) to be undertaken by any person who has a personal interest in the result of the assessment.

## **9. Security**

9.1 The Centre must comply with all of ISTD's security requirements, as notified to the Centre or published by ISTD from time to time, including those concerning the storage of any examination/assessment papers and the verification of Learners' identity.

9.2 The Centre shall notify ISTD as soon as reasonably practicable of any incident or risk of any incident which could result in the Centre's non-compliance with ISTD's examination/assessment security requirements and take all reasonable steps to

prevent the breach occurring, or where it cannot be prevented, reduce the risk of that incident occurring as far as possible.

## **10. Restrictions on promotion**

10.1 The Centre shall not promote any Qualifications without a valid and current Approval.

10.2 The Centre shall not make any statement in relation to a Qualification which is likely to mislead Learners, potential Learners or any others, or which is not consistent with the scope of the Approval and/or any specifications and guides issued by ISTD.

## **11. Review, monitoring and complaints**

11.1 The Centre must ensure that all aspects of the Delivery of Qualifications are subject to monitoring and review, and are in accordance with this Agreement at all times.

11.2 The Centre shall, on request from ISTD:

- (a) provide the results of such monitoring and review to ISTD; and/or
- (b) obtain feedback on Qualifications from Users.

11.3 The Centre shall operate an effective and appropriate complaints handling procedure and appeals process for the benefit of Learners, in compliance with the relevant ISTD Policies and Procedures.

## **12. Withdrawal**

12.1 If ISTD decides to withdraw the Approval (including as a result of suspension, expiry or termination of Approval) (in full or in part), or (for whatever reason) the Centre decides to withdraw from delivering the Qualifications:

12.1.1 comply with ISTD Policies and Procedures for the withdrawal of Approval;

12.1.2 promptly prepare, maintain and comply with a written withdrawal plan;

12.1.3 cooperate fully with ISTD;

12.1.4 provide clear and accurate information about the withdrawal to the Users;

12.1.5 immediately cease to enrol Learners for Qualifications;

12.1.6 provide to ISTD relevant details of all Learners enrolled for Qualifications; and

12.1.7 take all reasonable steps to protect the interests of Learners, including but not limited to, by assisting with or securing a transfer to a different Centre and supporting any valid claims for certification.

### **13. Quality assurance**

#### 13.1 ISTD shall:

- 13.1.1 provide such guidance to the Centre as may be reasonably requested or required in respect of the Delivery of Qualifications;
- 13.1.2 provide such guidance as it considers appropriate on how best to prevent, investigate, and deal with malpractice and maladministration;
- 13.1.3 make available any information reasonably necessary and requested by the Centre to assist it with the Delivery of Qualifications;
- 13.1.4 where it has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence may affect the Centre, inform the Centre as soon as reasonably practicable. For the avoidance of any doubt, ISTD will not notify the Centre where to do so may compromise a current or future investigation and/or put any individuals at risk of harm.

### **14. Equality and diversity**

#### 14.1 ISTD has a statutory duty to comply with the requirements of the Equality Act 2010 (“the Equality Act”).

#### 14.2 The Centre shall:

- 14.2.1 maintain an appropriate equality and diversity policy in respect of protected characteristics covering unlawful discrimination and other conduct prohibited by the Equality Act and/or 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;
- 14.2.2 have due regard to the need to eliminate unlawful “discrimination”, “harassment” and “victimisation” and other conduct prohibited by the Equality Act;
- 14.2.3 comply with ISTD Policies and Procedures on equality and diversity, access arrangements, reasonable adjustments and special consideration;
- 14.2.4 regularly monitor and review its compliance with this condition 14;
- 14.2.5 report to ISTD 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.

#### 14.3 ISTD may monitor and investigate any complaints or other notifications relating to equality in the Delivery of Qualifications.

## 15. Anti-bribery and anti-corruption

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

## 16. Data Protection

16.1 In this condition 16:

“**controller**”, “**data subjects**” “**processor**”, “**personal data**”, “**processing**”, “**special categories of personal data**” and “**personal data breach**” have the same meanings as defined in the Data Privacy Laws.

16.2 The parties acknowledge and understand that each party will act as a controller with respect to any personal data relating to Learners and exchanged between the parties in furtherance of the Agreement (“**Learner Personal Data**”). If the parties act as joint controllers, the additional terms in Schedule 3 will apply.

16.3 Each party shall ensure that it complies with its obligations under the Data Privacy Laws at all times during the term of the Agreement.

16.4 The Centre shall not transfer any Learner Personal Data to any country outside the European Economic Area (“**EEA**”) unless the Centre ensures that (as required to comply with the Data Privacy Laws):

16.4.1 the transfer is to a country approved by the UK Government or the European Commission as providing adequate protection ;

16.4.2 there are appropriate safeguards in place as required by applicable Data Privacy Laws; or

16.4.3 it can rely on a derogation from the relevant obligations under Data Privacy Laws.

16.5 Upon ISTD’s request, the Centre shall obtain on behalf of ISTD appropriate consents from the Learners as ISTD may require under the Data Privacy Laws in order for ISTD to process Learner Personal Data.

16.6 The Centre shall, in respect of any Learner Personal Data, ensure that:

16.6.1 the Centre’s privacy notice/policy/statement is clear and provides sufficient information to the Learners for them to understand: (i) which of their Learner Personal Data will be shared by the Centre with ISTD; (ii) the purpose of sharing their Learner Personal Data with ISTD; and (iii) the identity ISTD;

16.6.2 the Centre’s privacy notice/policy/statement shall provide a clear and prominent link to ISTD’s Data Retention Policy and Schedule; and

16.6.3 such Learner Personal Data supplied by the Centre to ISTD is accurate and kept up-to-date at all times.

- 16.7 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 Learner Personal Data, including to enable each party to comply with Learners' rights in respect of their Learner Personal Data and to respond to any other queries or complaints from the Learners and/or potential Learners in connection with the processing of Learner Personal Data.
- 16.8 Each party agrees that it shall have in place its own policies that must be followed in the event of a personal data breach, taking into account the Data Privacy Laws and any associated guidance.
- 16.9 Each party agrees to provide the other party with reasonable assistance as is necessary to facilitate the handling and resolution of any personal data breach in an expeditious manner and a manner that complies with the Data Privacy Laws.
- 16.10 Each party warrants that it will not take any action or make any omission which could result in the other party breaching the Data Privacy Laws or bring the other party into disrepute for reasons related to data privacy.
- 16.11 Breach of this condition 16 shall constitute material breach for the purpose of condition 23 (Termination).

## **17. Intellectual Property**

- 17.1 In consideration of the provision of the services to the Learners under the Agreement, ISTD hereby grants the Centre, for the purpose of providing such services only and for the duration of the Agreement, the non-exclusive non-transferable right (with no rights to sub-license) to:
- 17.1.1 designate the Centre as an Approved Dance Centre;
  - 17.1.2 use ISTD Centre Logo; and
  - 17.1.3 use such other ISTD Intellectual Property as ISTD may provide or permit in writing in connection with the Agreement,
- in each case, only to the extent necessary in connection with this Agreement.
- 17.2 The Centre must ensure that all materials (including online materials) using ISTD Intellectual Property produced by or on behalf of the Centre comply with:
- 17.2.1 any limitations and/or restrictions on use which may be communicated to the Centre by ISTD from time to time;
  - 17.2.2 any branding and copy guidelines issued by ISTD from time to time and/or published on the Systems; and
  - 17.2.3 any specific guidance provided by ISTD.
- 17.3 The Centre acknowledges and agrees that all ISTD Intellectual Property shall vest in ISTD and apart from the licence granted pursuant to condition 17.1, this Agreement does not transfer any interest in ISTD Intellectual Property.

- 17.4 All intellectual property rights developed or created by the Centre in collaboration with ISTD (other than where ISTD's role is limited to quality assurance in respect of such materials) in relation to the Qualifications shall be owned by ISTD. To the extent that the Centre or its representatives are the first owners of any such intellectual property in any works in connection with the Qualifications, the Centre hereby assigns all such rights with full title guarantee to ISTD.
- 17.5 The Centre shall promptly give written notice to ISTD of any actual, threatened or suspected infringement of any ISTD Intellectual Property of which it becomes aware.
- 17.6 The Centre shall ensure that it does not suggest in any way that it is owned or controlled by ISTD or that it has been franchised by ISTD. The ISTD Centre Logo and certificate of Approval are the only valid proofs of the Approval by ISTD.
- 17.7 The Centre will not use, register or attempt to register any mark, design, business name or domain name consisting or comprising or being confusingly similar to any of ISTD 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 ISTD, or may interfere with or jeopardise the registration and/or validity of ISTD Intellectual Property.
- 17.8 The Centre will only use the logos or other intellectual property of the Regulators in accordance with the Regulators' respective requirements.
- 17.9 For the avoidance of doubt, a breach of any of the provisions of this condition 17 shall be deemed to constitute a material breach of the Agreement.

## **18. Database of Learners**

- 18.1 ISTD acknowledges and agrees that, as between the Centre and ISTD, the Centre owns all the data in the database of Learners created by the Centre ("**Database of Learners**") and that all intellectual property rights in the Database of Learners are the property of the Centre.
- 18.2 The Centre grants to ISTD a non-exclusive and perpetual licence to use the Database of Learners and the data contained therein in connection with the Agreement and ISTD's role as an Awarding Organisation/Body.

## **19. Confidentiality**

- 19.1 Each party to this Agreement undertakes that it shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by condition 19.2.
- 19.2 Each party may disclose the other party's Confidential Information: (i) to its Workforce, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its Workforce, officers,

representatives, subcontractors or advisers to whom it discloses the other party's Confidential Information comply with this condition 19; and (ii) as may reasonably be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

19.3 Neither party shall use any other party's Confidential Information for any purpose other than to perform its obligations under the Agreement.

19.4 The Centre shall:

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

19.4.2 report any suspected breaches of confidentiality to ISTD as soon as reasonably practicable; and

19.4.3 cooperate with any investigations into such suspected breaches by ISTD.

19.5 The obligations in this condition 19 shall survive the termination of the Agreement until such time as the Centre no longer holds any Confidential Information which has been provided to the Centre by ISTD or its agents in connection with the Agreement.

## **20. Retention of records**

20.1 The Centre shall:

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

20.1.2 keep complete and accurate records for the duration of the Agreement and for 24 months from its termination, or for six (6) years from award of a qualification to a Learner, whichever is longer, relating to the Centre's compliance with its obligations under the Agreement and the Delivery of Qualifications and make these available to ISTD (at its own cost) upon request, including, but not limited to, attendance, performance, assessment and feedback, Learner feedback and internal quality assurance records.

## **21. Fees and payments**

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

21.2 Unless otherwise stated, all fees notified to the Centre by ISTD are exclusive of VAT (if applicable) and/or any equivalent sales tax in the Territory.

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

- 21.4 All amounts due under the Agreement from the Centre to ISTD 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 ISTD reserves the right, at any time and without notice to the Centre, to set off any liability of the Centre to ISTD against any liability of ISTD to the Centre, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement.
- 21.6 Any fees payable by the Centre to ISTD are, unless otherwise stated in the relevant ISTD Policies and Procedures, non-refundable.
- 21.7 The 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 Agreement, including but not limited to, the costs of recruitment and registration of Learners and the costs of examinations/assessments.
- 21.8 If any amount remains unpaid after the Payment Date, ISTD may charge interest on any outstanding fees on a daily basis at the Bank of England Base Rate plus 4%.
- 21.9 Without prejudice to ISTD's other rights and remedies, failure to pay any fees due may result in a sanction being imposed by ISTD under the Sanctions Policy, suspension or withdrawal of Approval and/or termination of the Agreement under condition 23.
- 21.10 The Centre shall indemnify ISTD on demand for any costs and expenses incurred in connection with the recovery of any fees due under the Agreement.
- 21.11 The Centre is solely responsible for the collection, remittance and payments of any taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in connection with the Delivery of Qualifications.
- 21.12. For the avoidance of doubt, the provisions of this condition 21 shall apply to all fees and/or any other amounts that may be payable by the Centre to ISTD in connection with the Agreement, whether or not the Centre has relied on any grant, government funding or any other third party funding at any point prior to or during the term of the Agreement, and any such fees and/or other amounts shall be payable in accordance with the Agreement, whether or not any such grant or funding is continuing.

## **22. Limitation of liability and indemnity**

- 22.1 Nothing in the Agreement shall limit or exclude any liability by either party for death or personal injury caused by its negligence, or the negligence of its Workforce, agents or sub-contractors, fraud or fraudulent misrepresentation, or any other liability that cannot be excluded or limited under English law.
- 22.2 Subject to condition 22.1:
- 22.2.1 ISTD shall have no liability to the Centre, whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under

or in connection with the 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 ISTD's liability for any claim or series of connected claims whether in contract, tort (including negligence), breach of statutory duty, or otherwise arising under or in connection with the Agreement shall be limited to a maximum sum equal to the total fees paid by the Centre under the 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 Centre agrees to indemnify ISTD on demand against all liabilities, costs, expenses, damages and losses suffered or incurred by ISTD, or its Workforce directly, or indirectly, arising from, or in connection with:

22.3.1 claims made by the Centre or any of its employees or other persons acting on its behalf for any employment-related payment or remuneration;

22.3.2 alleged and/or actual infringement or theft of any Confidential Information or intellectual property by the Centre's Workforce or other persons engaged in the Delivery of Qualifications or acting on the Centre's behalf;

22.3.3 any breach by the Centre or its Workforce of the provisions of condition 17 (Intellectual Property) and/or condition 24 (Consequences of termination);

22.3.3 any claim made against ISTD by any third party to the extent that such claim arises as a result of the Centre's breach, negligent performance or failure or delay in performing any of its obligations under the Agreement; and/or

22.3.4 any act or omission by the Centre (including, but not limited to, a breach of the Agreement), or its Workforce or sub-contractors, which places ISTD in breach of any Regulatory Requirements and/or any applicable laws and obligations as an Awarding Organisation.

22.4 For the duration of the Agreement and for six (6) years thereafter, the Centre will maintain full and comprehensive insurance at a level sufficient to cover any potential risks arising from the Centre's operations in connection with the Agreement, and upon request, the Centre shall provide to ISTD evidence of the validity of the insurance held in accordance with this condition 22.4.

## **23. Termination**

23.1 Either party may terminate the Agreement (and therefore the Approval) for any reason by providing not less than three (3) month's written notice to the other party.

- 23.2 Without prejudice to any of its rights or remedies, ISTD may terminate the Agreement immediately on written notice if the Centre:
- 23.2.1 is subject to a sanction under the Sanctions Policy resulting in the withdrawal of Approval;
  - 23.2.2 fails to renew the Approval prior to its expiry date;
  - 23.2.3 fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
  - 23.2.4 is in material or persistent breach of any term of the 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;
  - 23.2.5 ISTD reasonably believes that the Centre's conduct is prejudicial to ISTD's interests (including, but not limited to, in the case of the Centre's breach of any security requirements, malpractice or maladministration in the Delivery and assessment of Qualifications), or is not consistent with its brand values, guidelines and/or reputation, or may bring members or organisations within academia, education or the arts into disrepute;
  - 23.2.6 has not registered any Learners with ISTD for more than twelve (12) months;
  - 23.2.7 the Centre undergoes a Change of Control and such change may, in the reasonable opinion of ISTD, affect the Centre's ability to comply with its obligations under the Agreement, is inconsistent with ISTD's values and/or reputation, and/or creates, or is likely to create, a conflict of interest;
  - 23.2.8 is subject to an Insolvency Event;
  - 23.2.9 is unable to offer Qualifications as a result of a change in local laws and/or regulations, or as a result of loss of a licence or permit necessary to deliver the Qualifications;
  - 23.2.10 is subject to a sanction placed on it by another Awarding Organisation, resulting in the withdrawal of its recognition with that Awarding Organisation.
- 23.3 Without prejudice to any of its rights or remedies, ISTD may terminate the Agreement immediately on written notice if ISTD loses its status as an Awarding Organisation in respect of all qualifications.
- 23.4 ISTD reserves the right to suspend or restrict the Approval with immediate effect during the fourteen (14) days given to the Centre to remedy a breach under condition 23.2.4 and/or while it is investigating the Centre's conduct under any provision of the Agreement.

## **24. Consequences of suspension or termination**

- 24.1 The Centre shall take all reasonable steps (at its own cost) to act in the Learners' legitimate best interests in the event of suspension or expiry of Approval and/or during any investigation conducted by ISTD, or in the event of termination of the Agreement pursuant to condition 23, including, but not limited to, such co-operation as may be required to affect the transfer of Learners to another Centre.
- 24.2 Upon termination of the Agreement (howsoever caused) or suspension, withdrawal or expiry of the Approval:
- 24.2.1 all outstanding sums payable under the Agreement shall immediately become due and payable;
- 24.2.2 the Centre shall immediately cease to advertise any of the Qualifications; and
- 24.2.3 the Centre shall immediately cease to use ISTD Centre Logo in connection with promotion of any Qualifications or other business activities.
- 24.3 Immediately upon termination of the Agreement (or suspension, withdrawal or expiry of the Approval), the Centre shall, at ISTD's reasonable request, fulfil those specified obligations to ISTD and/or the Learners which remain unfinished as at the date of termination, expiry or suspension, and upon completion of such obligations:
- 24.3.1 cease to use any of ISTD's property, ISTD Intellectual Property and all of the materials produced by or on behalf of the Centre using such ISTD Intellectual Property (and destroy or return any of these at ISTD's request) and do such things, and execute and deliver all further documents as may be necessary to vest all rights, title and interest to ISTD under the Agreement;
- 24.3.2 cease to promote deliver the Qualifications; and
- 24.3.3 cease to use any ISTD Systems (if applicable).
- 24.4 On termination of the Agreement for any reason, the Approval will cease. However, each party's accrued rights and liabilities as at the date of termination, condition 5 (Conflicts of Interest), condition 9 (Security), condition 12 (Withdrawal), condition 17 (Intellectual Property), condition 18 (Database of Learners), condition 19 (Confidentiality), condition 20 (Retention of records), condition 21 (Fees and payments), condition 22 (Limitation of liability and indemnity), this condition 24 (Consequences of suspension or termination), and condition 27 (Governing Law and Dispute Resolution Procedure) will survive and continue in full force and effect.

## **25. Subcontracting and assignment**

- 25.1 The Centre may not assign, transfer, charge, sub-contract, or otherwise dispose of or delegate (including but not limited to, appointing an agent) any of its rights,

benefits or obligations arising out of the Agreement to any third party without ISTD's prior written consent.

- 25.2 Where ISTD has given written consent under condition 25.1, the Centre will be responsible for ensuring that the third party has appropriate capacity and capability to ensure the provision of the services under the Agreement at all times and will agree in writing to any requirements ISTD may have in providing its consent under condition 25.1. The Centre shall remain liable at all times to ISTD for the acts, errors or omissions of any such third party.
- 25.3 The Centre shall ensure that any such third party appointed by the Centre under this condition 25 to provide any services:
- 25.3.1 complies with all aspects of the Agreement and it is subject to legally binding terms not less onerous than the terms of the Agreement; and
- 25.3.2 clearly discloses its status and relationship with the Centre in any communication with Learners and/or other Users in connection with Qualifications.
- 25.4 For the avoidance of doubt, where ISTD has given written consent under condition 25.1, such consent does not extend to the right of the Centre to sub-license any of its rights in respect of ISTD Intellectual Property (including in respect of ISTD Centre Logo). Any use of ISTD Centre Logo and/or other ISTD Intellectual Property, and any other activity that could reasonably associate such third party with ISTD shall require prior written consent of ISTD given in respect of such third party.
- 25.5 ISTD may at any time assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and/or obligations under the Agreement, provided that any assignment, transfer or other disposition shall be only to another Awarding Organisation. ISTD shall notify the Centre as soon as reasonably practicable after any such assignment, transfer, or other disposition of its rights and/or obligations under this condition 25.5.
- 25.6 ISTD may subcontract or delegate in any matter any of its obligations under this Agreement to any third party.

## **26. General**

- 26.1 At its own expense, each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be reasonably required for the purpose of giving full effect to the Agreement.
- 26.2 Subject to condition 26.3, no amendment or variation of the Agreement shall be effective unless it is in writing and duly executed by or on behalf of each of the parties.

- 26.3 ISTD may from time to time amend or vary the terms of this Agreement upon written notice to the Centre, when such amendment or variation becomes necessary or desirable to comply with the Regulatory Requirements, any applicable laws and/or for reasons related to ISTD's business. Any variation or amendment of this Agreement shall take effect from the date specified in the notice of variation or amendment.
- 26.4 For the avoidance of doubt, ISTD may at any time amend or vary any or all of ISTD Policies and Procedures by publishing the amended or varied version(s) on the Systems or otherwise making it available to the Centre. Any such variation or amendment takes effect from the date of such publication or notification.
- 26.5 The invalidity, illegality or unenforceability of any term, part-term of or any right arising pursuant to the 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 nor part-term shall be deemed deleted.
- 26.6 Neither party will be in breach of the Agreement nor liable for a delay or failure in performance resulting from events, circumstances or causes beyond its reasonable control. In such circumstances, the affected party will be entitled to a reasonable extension of the time allocated for performing its obligations. If the period of delay or non-performance continues for thirty (30) days from the date of occurrence, the party not affected may terminate the Agreement by giving fourteen (14) days' written notice to the other party.
- 26.7 Without prejudice to any other rights or remedies that ISTD may have, the Centre acknowledges and agrees that damages alone may not be an adequate remedy for breach of the terms of the Agreement and that ISTD shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach by the Centre of any of the terms of the Agreement.
- 26.8 Any notice under or in connection with the Agreement must be in writing and correctly addressed. Notices/communications may be given by either party by pre-paid first-class post or other next Business Day delivery service (to the main business address for both parties) or by email, in the case of the Centre to the authorised person whose email address is stated in the Application for Centre Approval (or otherwise notified to ISTD), and in the case of ISTD, to that of ISTD representative whose email address will be specified in any Approval confirmation notice. A notice will be deemed received three (3) days after posting if sent by first-class post or other next Business Day delivery service and at 5pm on the day of sending if sent by email, provided that any notice received on a weekend or public holiday or after 5 pm (local time at the place of receipt) will be deemed to be received on the next Business Day. This condition 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.

- 26.9 A person who is not a party to the 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 Agreement.
- 26.10 Nothing in the 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.
- 26.11 A waiver of any right or remedy under the 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 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 Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 26.12 The 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 Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement and each party acknowledges that, in entering into the Agreement, it has not relied on any representation or warranty.

## **27. Governing Law and Dispute Resolution Procedure**

- 27.1 Each party agrees that the Agreement and the relationship between the Centre and ISTD will be governed by and construed in accordance with the law of England and Wales and that (subject to the remainder of this condition 27) 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 Agreement or its subject matter or formation.
- 27.2 In the event that any claim or dispute arises out of or in connection with the Agreement, 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 14 calendar 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 in accordance with this condition 27.2, either party may commence proceedings in accordance with condition 27.1.

- 27.3 Nothing in this condition 27 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 the Agreement or infringement, or threatened infringement, of the applicant's intellectual property rights.

## **Schedule 1**

### **Definitions and Interpretation**

1. The following definitions and rules of interpretation apply to this Agreement:

**“Approved Dance Centre”** or **“ADC”** means any organisation that has been Approved to deliver the Qualifications by ISTD, including the Centre.

**“Adverse Effect”** means an adverse effect as defined in the applicable General Conditions of Recognition, including an act, omission, event, incident, or circumstance which (a) gives rise to prejudice to Learners or potential Learners; or (b) adversely affects:

- i. the ability of ISTD to undertake the development, delivery or award of qualifications in accordance with its Regulatory Requirements
- ii. the standards of qualifications which ISTD makes available or proposes to make available; or
- iii. public confidence in such qualifications.

**“Agreement”** means this agreement.

**“Application for Centre Approval”** means an application submitted to ISTD for the purpose of becoming an Approved Dance Centre, in the form prescribed by ISTD from time to time.

**“Application for Qualification Approval”** means an application submitted to ISTD in conjunction with (or as part of) the Application for Centre Approval, or at any time after Approval, to add (further) Qualifications to the existing Approval,, in the form prescribed by ISTD from time to time.

**“Approval”** means approval granted by ISTD in respect of the delivery of the Qualifications, and **“Approved”** shall be construed accordingly.

**“Awarding Organisation/Body”** means an organisation recognised by a Regulator in respect of the award of regulated qualifications.

**“Business Day”** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**“CASS”** means Centre Assessment Standards Scrutiny i.e. the process through which ISTD: (1) periodically scrutinises the marking of assessments by an Centre to ensure that it has not deviated from the 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) of Ofqual’s Conditions of Recognition (or equivalent Regulatory Requirements); (3) in line with Condition H6.3(b) Ofqual’s Conditions of Recognition (or equivalent Regulatory Requirements) 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.

**“Centre”** means the organisation named in the relevant Application for Centre Approval that has been Approved to deliver the Qualifications in accordance with the terms of this Agreement.

**“Centre Agreement”** means the legally binding agreement between ISTD and the Centre for the Approval and delivery of qualifications on the terms set out in this Agreement, the Application for Centre Approval, any Special Conditions, any Application for Qualification Approval and ISTD Policies and Procedures.

**“Change of Control”** means the change of the person who determines the affairs of the Centre, either by means of majority shareholding, voting power or the terms of any constitution or contract.

**“Commencement Date”** means the date when ISTD first notifies the Centre of its approval as an Approved Dance Centre.

**“Confidential Information”** means any information which has been designated as confidential by either party to this Agreement in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, finances, properties, assets, trading practices, developments, trade secrets, ISTD Intellectual Property, know-how, personnel, and customers of ISTD or the Centre (as the case may be), and all personal data and sensitive personal data within the meaning of the Data Privacy Laws.

**“Data Privacy Laws”** means any applicable law relating to the processing, privacy and use of personal data, as applicable to either party to this Agreement in connection with the Agreement, including the UK Data Protection Act 2018 and/or the General Data Protection Regulation (EU) 2016/679 (“**GDPR**”) or UK General Data Protection Regulation (as implemented into law as a result of the UK’s exit from the EU), and /or any corresponding or equivalent national laws or regulations in the Territory; 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).

**“Delivery”** means the delivery of teaching and learning, assessment and internal quality assurance.

**“General Conditions”** means any or all, as the context may require, of the following: Ofqual’s General Conditions of Recognition, Qualifications Wales Standard Conditions and CCEA Regulation General Conditions of Recognition.

**“Insolvency Event”** in relation to either party to this Agreement: (a) is unable to pay its debts or becomes insolvent or bankrupt; (b) is the subject of an order made or a resolution passed for its administration, winding-up or dissolution; (c) is subject to any proceedings for the appointment of an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer over all or any substantial part of its assets; (d) proposes or enters into any composition or arrangement with its creditors generally (except for the purposes of a bona fide solvent amalgamation, reconstruction or re-organisation (provided this does not materially reduce the assets of that party)); or (e) is subject to an analogous event to any of the foregoing in any jurisdiction.

**“ISTD”** a company registered in England and Wales with company number 392978 whose registered office is at 22-26 Paul Street, London, EC2A 4QE, United Kingdom.

**“ISTD Intellectual Property”** any and all intellectual property rights of ISTD, and its subsidiary undertakings, of any nature anywhere in the world whether registered, registrable or otherwise, including anywhere in the world, including patents, utility models, trademarks, 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.

**“ISTD Policies and Procedures”** means the policies and procedures applicable to ADCs published on the website or otherwise made available to the ADCs, as amended, supplemented and updated from time to time.

**“ISTD Centre Logo”** means the logo designated by ISTD from time to time for use by the ADCs in connection with the Delivery of Qualifications.

**“Key Personnel”** means any or all, as the context may require, of the following roles: Head of Centre, Teacher/Tutor, Centre Coordinator, and/or any other person/role named on the Application for Centre Approval.

**“Learner”** means a person who is registered to take a Qualification and to be assessed as part of that Qualification.

**“Qualification(s)”** means the ISTD qualifications (including any units of qualifications) which the Centre is Approved to deliver under the terms of the Agreement. For the avoidance of doubt, this Agreement does not include regulated End Point Assessments.

**“Regulator”** means the qualifications regulators in England (the Office of Qualifications and Examinations Regulation (**Ofqual**)), Wales (**Qualification Wales**) and Northern Ireland (Council for the Curriculum, Examinations and Assessment (**CCEA Regulation**)), and includes any successors to those bodies; and the Charity Commission of England and Wales.

**“Regulatory Requirements”** means any conditions to which ISTD is subject as an Awarding Organisation/Body, including the General Conditions and any other (general or specific) law, regulation, condition, requirement, standards and principle imposed by any Regulator on ISTD from time to time.

**“Sanctions Policy”** means ISTD sanctions policy from time to time forming part of ISTD Policies and Procedures and setting out the rules, procedures and sanctions that be applied by ISTD in the event of a failure by the Centre to comply with the provisions of the Agreement.

**“Serious Incident”** means an adverse event, whether actual or alleged, which results in or risks significant:

- harm to ISTD’s beneficiaries, staff, volunteers or others who come into contact with its work;

- loss of ISTD’s money or assets;
- damage to ISTD’s property; and/or
- harm to ISTD’s work or reputation.

“**Special Conditions**” means any specific requirements that may be imposed by ISTD as part of the Approval, as notified to the Centre in writing upon Approval, and/or at any time thereafter.

“**Systems**” means any systems of ISTD made available to its ADCs (including its Website).

“**Territory**” means the geographical area(s) where you are approved to deliver and promote the Qualifications.

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

“**Website**” means [www.istd.org](http://www.istd.org) and/or any other website of ISTD addressed to the ADCs.

“**Workforce**” means persons available for work (including employees, workers and contractors).

2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
3. Unless the context otherwise requires, words in the singular shall include the plural, and in the plural, shall include the singular.
4. The Agreement shall be binding on, and ensure to the benefit of, the parties to the 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.
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.
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.
7. A reference to writing or written includes email.
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.

9. The Schedules forms part of the Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

## Schedule 2: Joint Controller Terms

For the purposes of this Schedule the following terms shall have the following meanings:

<b>"Receiving Party"</b>	a party to this Agreement which is receiving Learner Personal Data from the other party to this Agreement;
<b>"Disclosing Party"</b>	a party to this Agreement which is disclosing Learner Personal Data to the other party to this Agreement.

### Part 1 - Essence of the Arrangement

1. The Disclosing Party will provide a privacy notice to the relevant data subject which sets out:
  - (a) the roles and responsibilities of ISTD and the Centre, as joint controllers;
  - (b) how the data subject can exercise his or her rights.
2. The Disclosing Party will ensure that the relevant data subjects are notified of any changes to (i) the roles and responsibilities of the parties; and/or (ii) the point(s) of contact.

### Part 2 - Claims and Liability

1. If a data subject makes a claim for compensation under the Data Privacy Laws against one party (but not the other party) for damage suffered as a result of processing his or her Protected Data for the Purpose (a "**Claim**"):
  - (a) the party in receipt of the Claim (the "**Affected Party**") will promptly notify the other party of the Claim;
  - (b) the Affected Party will keep the other party fully informed of the progress of, and all material developments in relation to, the Claim;
  - (c) the other party will provide the Affected Party with full co-operation and assistance in handling the Claim;
  - (d) the Affected Party will have sole discretion over conduct of the Claim, but will use reasonable endeavours to consult with the other party prior to agreeing any compromise or settlement, or making any admission of liability.
2. If the Claim is successful and results in an award of compensation against the Affected Party, the parties agree that responsibility for the compensation awarded under the Claim shall be apportioned between the parties to such an extent as is just and equitable having regard to each party's share in the responsibility for the cause which gave rise to the Claim.

3. If the Affected Party agrees to a compromise or settles a Claim, the parties agree that responsibility for the compensation awarded shall be apportioned between the parties to such an extent as is just and equitable having regard to each party's share in the responsibility for the cause which gave rise to the Claim provided that the Affected Party consulted with the other party prior to the agreement of any such compromise or settlement.