

ACCREDITATION LICENCE

issued by

THE SCOTTISH QUALIFICATIONS AUTHORITY



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SCHEDULE

ACCREDITATION LICENCE

from

THE SCOTTISH QUALIFICATIONS AUTHORITY, a non-departmental public body established under the Education (Scotland) Act 1996 and having its principal offices the Optima Building, 58 Robertson Street, Glasgow G2 8DQ (hereinafter referred to as **SQA**); and

in favour of [*awarding body name and address*] (hereinafter referred to as the **Licensee**).

Background

- 1 SQA is authorised to regulate awarding bodies and the qualifications they offer under the Education (Scotland) Act 1996.
- 2 SQA, via its accreditation function which operates as SQA Accreditation, accredits the qualifications described in Part 1 of the Schedule (the "**Qualifications**") and approves the Licensee as the awarding body in respect of the Qualifications.
- 3 SQA has issued an accreditation approval letter (the "**Accreditation Approval**") to the Licensee as a Qualification Awarding Body in relation to the Qualifications.
- 4 It is a condition of accreditation that the Licensee complies with the terms and conditions of this accreditation licence.

AGREED TERMS

1 Interpretation

- 1.1 In this Licence and the Schedule:

"**Confidential Information**" means all confidential information of SQA from time to time (in whatever medium stored) including (but not limited to) all business, financial and operational information, know-how and trade secrets in relation to the activities of the SQA and all information in respect of which SQA is bound by an obligation of confidence to a third party;

"**Data**" means information (including personal data) which SQA consider to be relevant to the subject matter of an Investigation;

"**Data Protection Law**" means Law relating to data protection, the processing of personal data and privacy from time to time, including:

- (a) the *General Data Protection Regulation (EU) 2016/679*;

- (b) the *Privacy and Electronic Communications (EC Directive) Regulations 2003* (as may be amended by the proposed *Regulation on Privacy and Electronic Communications*);
- (c) the Data Protection Act 2018; and
- (d) any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the *General Data Protection Regulation (EU) 2016/679*, the proposed *Regulation on Privacy and Electronic Communications* or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

"Fees" means the licence fees payable by the Licensee to SQA as set out in Part 2 of the Schedule;

"Intellectual Property" means all intellectual and/or industrial property of whatever kind belonging to SQA and subsisting in any part of the world including (but not limited) to the SQA name and logos (including the SQA Accreditation logo) and all other copyrights and any registered or unregistered trade marks owned by SQA;

"Law" means any statute, directive, other legislation, law or regulation in whatever form, delegated act (under any of the foregoing), rule, order of any court having valid jurisdiction or other binding restriction, decision or guidance in force from time to time;

"Licensed Intellectual Property" means that Intellectual Property which relates to SQA's accreditation function and which the Licensee requires to use to enjoy the benefit of the Licence and to include the SQA Accreditation logo;

"Licence" means this Accreditation Licence; and

"Schedule" means the Schedule in 2 parts annexed to this Licence.

1.2 Words and expressions defined in Data Protection Law shall have the same meanings in this Agreement so that words and expressions shall be interpreted in accordance with:

1.2.1 the General Data Protection Regulation (EU) 2016/679;

1.2.2 the Data Protection act 2018; and

1.2.3 in respect of processing undertaken on or after the date on which legislation comes into force that replaces or enacts into United Kingdom domestic law, the General Data Protection Regulation (EU) 2016/679, that legislation;

1.3 Where, under Data Protection Law, and any of these words or expressions and/or their meanings are changed or replaced:

- 1.3.1 the term shall be interpreted to refer to the term or concept (and the meaning) that most closely corresponds to it under Data Protection Law then in force; and/or
- 1.3.2 where the term remains the same but the meaning changes then the term shall be given the meaning given to it under Data Protection Law then in force.
- 1.4 References to any of the parties shall include their respective personal representatives, successors in title and permitted assignees.
- 1.5 Any reference in this Licence to a statute or other legislation shall include any amendment or re-enactment thereof.
- 1.6 References to a person include references to any individual (including that individual's legal personal representatives), firm, company, corporation or other body corporate, government, state, agency of a state, local authority or any unincorporated association, joint venture or partnership (whether or not having a separate legal personality).

2 The Licence

- 2.1 The Licence shall apply from the Effective Date until it is withdrawn or terminated by SQA in accordance with condition 9.
- 2.2 The Licence is non-exclusive. The Licence is limited to the United Kingdom.
- 2.3 The Licence is personal to the Licensee and may not be assigned or transferred to any other person.

3 Licensee's obligations

- 3.1 The Licensee must for the duration of this Licence:
- 3.1.1 comply with the regulatory principles as published by SQA from time to time;
- 3.1.2 comply with all reasonable regulatory guidance and instructions issued by SQA to the Licensee from time to time in so far as relevant to the Qualifications;
- 3.1.3 provide such information in relation to the Qualifications and the Licensee as SQA may reasonably require;
- 3.1.4 attend such meetings as SQA may reasonably require in relation to this Licence and the Qualifications; and
- 3.1.5 not do (or omit to do) any act or thing which might reasonably be anticipated to have an adverse effect on the reputation of SQA or its business or operations.

4 Investigations and data protection

4.1 Investigations

- 4.1.1 Pursuant to its statutory functions and powers, SQA may conduct investigations from time to time ("**Investigations**") in order to safeguard and ensure the quality and integrity of the qualifications that it recognises, in order to prevent fraud and to investigate alleged misconduct, malpractice and maladministration. It is essential that the Licensee
- 4.1.1.1 proactively notifies SQA promptly in the event that it becomes aware, or has reasonable suspicions, of allegations, facts or circumstances that amount to, or may reasonably be believed to amount to, fraud, misconduct, malpractice or maladministration; and
 - 4.1.1.2 co-operates with SQA and, in particular, disclose to SQA any Data which SQA considers is relevant to such investigations.
- 4.1.2 Accordingly, the Licensee shall:
- 4.1.2.1 disclose to SQA promptly on request in writing from SQA any Data in its possession that SQA requires for the purposes of any Investigation involving or concerning the Licensee, its staff or any of its candidates that it carries out;
 - 4.1.2.2 ensure that an equivalent right to that contained in condition 4.1.1 is included in any agreements concerning the Licensee and other third parties in order that it may require such third parties to provide it with Data requested by SQA so that it may, in turn, disclose that Data to SQA for any Investigation pursuant to condition 4.1.1 the Licensee agrees to exercise those rights to the extent necessary to comply with any SQA request;
 - 4.1.2.3 ensure that where Data consists of personal data it shall have been obtained from the data subjects to whom it relates on a basis such that disclosure of that Data to the SQA for the purposes of the Investigation shall not contravene Data Protection Law; and
 - 4.1.2.4 co-operate fully with SQA in relation to the carrying out of its Investigation and will not (directly or indirectly) do any act or thing (or fail to do any act or thing) which is prejudicial to the carrying out of the Investigation and shall act generally in accordance with the directions of SQA in relation to matters concerning the subject matter of any Investigation.

- 4.1.3 The Licensee acknowledges and agrees that
- 4.1.3.1 SQA may disclose any Data that it receives from the Licensee or the results or findings of any Investigation to any regulators or other bodies having responsibility for any matters concerning the responsibilities of the Licensee under this Agreement or the investigation of crime or dishonesty, fraud, misconduct, malpractice or maladministration; and
- 4.1.3.2 such regulators or other bodies may directly request or require that the Licensee discloses information to them for the purposes of such matters or investigations and that the Licensee will promptly comply with such requests or requirements when asked to do so.
- 4.1.4 The Licensee agrees that any disclosure of personal data to SQA pursuant to the provisions of clause 4.1.2.3 shall be on a data controller to data controller basis for the purposes of Data Protection Law. The parties agree that each party is separately responsible for complying with the obligations incumbent on it as a data controller and that no party is liable for the actions for the other party which might breach those obligations.

4.2 **Data protection**

- 4.2.1 Without prejudice to the specific provisions of condition 4.1:
- 4.2.1.1 the Licensee, when processing personal data whilst carrying out its activities as contemplated by this Agreement, shall be a separate and independent data controller acting in its own right and not as a joint data controller with SQA; and
- 4.2.1.2 the Licensee shall ensure that all personal data which it processes is processed fairly and lawfully and in accordance with Data Protection Law and shall be responsible for complying with the obligations incumbent on it under Data Protection Law.
- 4.2.2 The Licensee warrants that in relation to any personal data transferred by it to SQA, it is lawfully entitled to transfer such personal data to SQA in order for SQA to use the personal data for the purposes contemplated by this Agreement.
- 4.2.3 The Licensee will, promptly upon the SQA's request, provide such information as may be reasonably requested to demonstrate its compliance with its obligations in this condition 4.2.
- 4.2.4 The Licensee shall ensure that any data subjects from whom it collects personal data are made aware in a manner that is fair and lawful for the purposes of Data Protection Law that such personal data will be processed by SQA as a data controller in its own

right in accordance with the terms of any fair processing notice of SQA notified to the Licensee from time to time.

4.2.5 To the extent that SQA may ask the Licensee to process personal data on its behalf, the Licensee agrees to enter into a separate data processing agreement which complies with Data Protection Law and otherwise on such terms as SQA may reasonably require.

4.2.6 The Licensee agrees that:

4.2.6.1 it shall implement appropriate organisational and security measures, so as to ensure an appropriate level of security is adopted to mitigate the risks associated with its processing of the personal data it processes whilst carrying out its activities as contemplated by this Agreement, including against unauthorised or unlawful processing, accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or damage or access to such Data; and

4.2.6.2 it shall not transfer any of those personal data outside the European Economic Area, except upon and in accordance with the express written instructions or agreement in writing of SQA.

4.2.7 On a general basis, if the Licensee receives any complaint, notice or communication which relates directly or indirectly to the processing of any personal data by it whilst carrying out its activities under this Agreement or to its compliance with Data Protection Law, it will immediately notify SQA and it will provide SQA with full co-operation and assistance in relation to any such complaint, notice or communication.

4.2.8 The Licensee warrants that it has in place (and shall maintain) an appropriate policy dealing with the retention and destruction of the personal data it processes whilst carrying out its activities under this Licence and agrees to adhere to such policy in the event that this Agreement terminates for any reason whatsoever.

5 The Qualifications and certificates

5.1 The Licensee must for the duration of this Licence:

5.1.1 ensure continuous quality assurance, technical standards and service improvement in relation to the provision of the Qualifications, subject to seeking the prior consent of SQA in relation to any material changes which may be required to any element of the Qualifications;

5.1.2 develop and implement a marketing and publicity strategy designed to promote and maximise enrolment of candidates for the Qualifications, to the reasonable satisfaction of SQA;

5.1.3 implement any reasonable request by SQA to revise the Qualifications, or any document, policy or system which is relevant to the Qualifications; and

5.1.4 provide SQA with any other information it reasonably requires.

5.2 The Licensee must:

5.2.1 issue a certificate containing the information referred to in condition 5.2.2 to each candidate which completes the requirements for a Qualification, in addition to any certificate or record issued to a candidate in respect of attainment of any constituent part or parts of the Qualification;

5.2.2 the information referred to in condition 5.2.1 is:

5.2.2.1 the SQA Accreditation logo for awarding bodies;

5.2.2.2 a reference to SQA as the accrediting body via its accreditation function which operates as SQA Accreditation

5.2.2.3 the title of the Qualification;

5.2.2.4 the name of the Licensee as the awarding body; and

5.2.2.5 the date of issue;

5.2.3 ensure that the form and style of the certificates to be issued pursuant to condition 5.2.1 are agreed in writing with SQA;

5.2.4 not issue any certificate bearing reference to SQA following the withdrawal or termination of this Licence (other than to candidates who have completed the requirements for the Qualification prior to the date of such withdrawal or termination); and

5.2.5 not issue any certificate bearing reference to SQA other than to a candidate who has completed the requirements for a Qualification.

6 Fees and invoicing

6.1 The Licensee shall pay to SQA the Fees (if any) and all other amounts properly due to SQA in connection with this Licence.

6.2 The Licensee shall pay late payment interest on Fees or other amounts which are not paid to SQA on the date such amounts are due at the rate of 7% above the base rate (from time to time) of the Bank of England. Late payment interest will be calculated on a daily basis from the day that any amount is due until it is paid, but will not be compounded.

7 Intellectual property

- 7.1 The Licensee acknowledges SQA's full rights in the Intellectual Property.
- 7.2 The Licensee may, for the duration of this Licence, reproduce the SQA Accreditation logo for awarding bodies and make reference to SQA as the accrediting body in any material promoting, providing information on, or otherwise relating to the Qualifications.
- 7.3 In its use of the Licensed Intellectual Property pursuant to this Licence the Licensee shall:
- 7.3.1 use the Licensed Intellectual Property in accordance with the directions of SQA;
 - 7.3.2 not do anything which damages the value or reputation of the Licensed Intellectual Property;
 - 7.3.3 not permit any third party to use or otherwise infringe the Licensed Intellectual Property; and
 - 7.3.4 notify SQA immediately of any unauthorised use or infringement of the Licensed Intellectual Property or any threat thereof.
- 7.4 The Licensee shall not directly or indirectly attempt to register or register any Intellectual Property belonging to SQA and in particular but not limited to the SQA Accreditation logo or anything which uses or incorporates it or anything confusingly similar to it.

8 Indemnity

- 8.1 The Licensee shall indemnify SQA against any and all damages, losses, costs (including reasonable legal costs), expenses, charges or other claims which may at any time or from time to time awarded, claimed or raised against SQA, or for which it may be held responsible, arising out of any act or omission of the Licensee in breach of the terms of this Licence.

9 Withdrawal and termination

- 9.1 Both SQA and Licensee may withdraw and terminate this Licence for convenience on giving to the other not less than 18 months' written notice to that effect.
- 9.2 SQA may, without prejudice to any of its other rights, withdraw and terminate this Licence with immediate effect if:
- 9.2.1 the Licensee is in material breach of any of the terms of this License which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so; or
 - 9.2.2 SQA ceases to accredit the Qualifications and/or the Licensee as an awarding body in relation the Qualifications.

- 9.3 SQA may, without prejudice to any of its other rights, withdraw and terminate this Licence with immediate effect if:
- 9.3.1 the Licensee 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;
 - 9.3.2 the Licensee 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;
 - 9.3.3 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 Licensee;
 - 9.3.4 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 Licensee;
 - 9.3.5 the holder of a qualifying floating charge over the assets of that other Licensee has become entitled to appoint or has appointed an administrative receiver;
 - 9.3.6 a person becomes entitled to appoint a receiver over the assets of the Licensee or a receiver is appointed over the assets of the Licensee;
 - 9.3.7 a creditor or encumbrancer of the Licensee 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 Licensee's assets and such attachment or process is not discharged within 14 days; or
 - 9.3.8 any event occurs, or proceeding is taken, with respect to the Licensee in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this condition 9.3.
- 9.4 In the event that SQA gives to the Licensee notice under Part 2 of the Schedule to this Licence to introduce Fees then Licensee shall be entitled to withdraw from and terminate this Licence by giving to SQA not less than 6 months' prior written notice to that effect provided that any such notice must be given by the Licensee to SQA not later than 30 days after the giving of the original notice by SQA, failing which the right to withdraw from, and terminate, the Licence shall expire.

10 Consequences of termination

- 10.1 Any termination or withdrawal of this Licence, howsoever caused, shall not affect any rights or liabilities which have accrued prior to the date of termination.
- 10.2 The Licensee shall within 14 days of termination or withdrawal return at its expense to SQA all materials and all literature and documents of any kind whatsoever which shall have been supplied to the Licensee by SQA under or in connection with the Licence.

11 Discrimination

The Licensee shall not unlawfully discriminate within the meaning of the Equalities Act 2010 or any other law, enactment, order, regulation or other similar instrument relating to discrimination.

12 Anti-bribery

The Licensee shall comply (and ensure compliance by its officers, employees, agents, service providers and associated persons) with all applicable laws, regulations, codes and guidance relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

13 Variation

13.1 SQA may from time to time by notice in writing issue updates to the terms and conditions of this Licence. Within 30 days of the receipt of such a notice the Licensee may by notice withdraw from and terminate this Licence but if it does not the updates will take effect as at the end of that 30 day period, and shall be deemed to have been accepted and agreed to for all purposes by the Licensee.

13.2 If during the currency of this Licence SQA agrees to accredit a qualification in addition to the Qualifications then, at SQA's discretion, SQA may (a) issue an additional licence to the Licensee or (b) update the Schedule to this Licence, which from that point will supersede the schedule in force at that date.

14 Notices

14.1 Any notice or document required or permitted to be given or served under this Licence must be in writing and given or served personally or by sending the notice by recorded delivery post to the addresses of the parties as documented in this Licence or to such other address as shall have been last notified to the other party for that purpose. To be valid notices sent to SQA must be marked for the attention of the Head of Accreditation.

15 Confidentiality

15.1 The Licensee shall not during the period of this Licence or thereafter communicate to a third party the contents of this Licence or any item of Confidential Information it receives pursuant to this Licence except with the prior written consent of the SQA.

15.2 Information shall not be Confidential Information for the purposes of this Licence to the extent that:

15.2.1 it is already in the public domain or it subsequently comes into the public domain other than by breach of this Licence;

15.2.2 it was already known to the receiving party prior to its acquisition from the Licensee; or

15.2.3 it must be disclosed pursuant to a legal, regulatory or parliamentary obligation placed upon the Licensee.

16 Waiver

- 16.1 No failure or delay by SQA in the exercise of any right or remedy provided under this Licence shall constitute a waiver 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

17 Relationship of the parties

- 17.1 The Licensee is not a partner, agent or representative of SQA and the Licensee shall not at any time incur or purport to incur any liability or obligation whatsoever in name of or on behalf of SQA.

18 Governing law

This Licence shall be governed by and construed in accordance with the laws of Scotland. The Licensee may not commence proceedings relating to this Licence or its subject matter in any jurisdiction other than Scotland.

19 Entire Agreement

- 19.1 This Licence and the documents referred to herein (including the Accreditation Approval) contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.
- 19.2 With effect from the date of signing of this Licence, all prior agreements between SQA and the Licensee in relation to the Qualifications shall be terminated, without prejudice to any accrued rights.

For the Licensee

.....
signature of
director/authorised signatory

.....
signature of
witness

.....
full name of above (print)

.....
full name of above (print)
Witness address

.....
date of signing

.....
place of signing

THIS IS THE SCHEDULE IN 2 PARTS REFERRED TO IN THE FOREGOING ACCREDITATION LICENCE FROM SCOTTISH QUALIFICATIONS AUTHORITY IN FAVOUR OF [NAME OF LICENSEE]

PART 1- QUALIFICATIONS

[List Qualifications]

PART 2 – FEES

No Fees are payable under the Accreditation Licence as at the date the Accreditation Licence takes effect. SQA may introduce Fees under the Accreditation Licence at any time in accordance with any standard fees that it introduces with regards to services provided by it. Any such Fees may only be introduced by SQA after the giving to the Licensee of not less than 6 months' prior written notice to that effect.

Any Fees payable shall be exclusive of any VAT chargeable thereon.

The Fees will be payable on the date(s) and with the frequency determined by SQA acting consistently with the normal rules that it determines shall apply for the payment of fees by Qualification Awarding Bodies generally.