



# ILM Customer Handbook (for ILM Centres and Providers)

The essential information you need to work with ILM (incorporating terms, conditions, policies and guidance)

Version 4 April 2018

## Your Contract with ILM

Terms and Conditions applying to Centres and Providers

This version replaces all previous versions of the Customer Handbook. Changes to the Centre contract are shown in grey text.

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# 1 Definitions

In this contract, the following terms have the meanings shown:

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<b>Approval Date</b>	the date of the letter from ILM confirming that the Centre or Provider is approved as an ILM Centre or ILM Provider
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<b>Qualification/Programme</b>	an ILM qualification which ILM has approved a Centre to offer or a programme offered by a Provider which ILM has recognised, as the case may be
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<b>Centre</b>	an individual or an organisation which has been approved as a Centre by ILM to offer ILM qualifications
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<b>Centre/Provider</b>	a Centre or Provider (as the case may be)
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<b>Centre/Provider Approval Fees</b>	all fees relevant to the status of the Centre or Provider (as the case may be) as a Centre or Provider
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<b>Confidential Information</b>	any information of ILM (which includes any information of the Group Companies) or of the Centre or Provider relating to trade secrets, plans, product information, communicated in any form which is marked as confidential or might reasonably be considered to be confidential in nature
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<b>Data Protection Legislation</b>	means European Directives 95/46/EC and 2002/58/EC and any legislation and/or regulation implementing or made pursuant to them, or which amends, replaces, re-enacts or consolidates any of them (including Regulation (EU) 2016/679 the General Data Protection Regulation ( <b>GDPR</b> )), and all other applicable laws relating to processing of personal data and privacy that may exist in any relevant jurisdiction, including, where applicable, the guidance and codes of practice issued by supervisory authorities
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"controller", "data subject" and "processing" shall be interpreted in accordance with the GDPR

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<b>Fees</b>	<p>fees payable by the Centre or Provider under this contract including:</p> <ul style="list-style-type: none"> <li>- Learner Fees, Centre/Provider Approval Fees, Qualification/Programme Approval Fees and any other fees set out in the Guide to Fees available on the ILM website</li> <li>- any other consultancy fees</li> <li>- subscription or membership fees as published periodically by ILM</li> </ul>
<b>Financial Year</b>	1 September to 31 August
<b>Group Company</b>	any company which is a subsidiary of The City and Guilds of London Institute
<b>ILM</b>	The City and Guilds of London Institute
<b>ILM Qualifications/Programmes</b>	qualifications offered by The City and Guilds of London Institute under the ILM brand or Programmes which The City and Guilds of London Institute has recognised under the ILM brand
<b>ILM brand</b>	the initials ILM
<b>ILM logo</b>	any logo which consists of or incorporates the initials ILM
<b>Intellectual Property Right</b>	<p>copyright</p> <p>trade marks whether registered or not</p> <p>database rights</p> <p>rights in computer software</p> <p>all rights to the grant of, and applications for, the above rights</p> <p>the right to issue proceedings for passing off</p> <p>any other intellectual property rights or similar or analogous rights throughout the world and all future rights of such nature</p>
<b>Learner Fees</b>	registration and certification fees payable by the Centre/Provider under this contract
<b>Learners</b>	learners who are registered for ILM Qualifications/Programmes
<b>Personal Data</b>	information relating to an identified or identifiable natural person as defined in the GDPR, including Sensitive Personal Data

<b>Policies</b>	policies, procedures, regulations, forms and any other documents (and any amendments to them) which are relevant to this contract and of which the Centre/Provider has been notified by or on behalf of ILM
<b>Provider</b>	an individual or an organisation which has been approved by ILM to deliver Endorsed and Development programmes
<b>Qualification/Programme Approval Fees</b>	all fees relevant to the approval of a Centre to offer specific ILM qualifications or the recognition of a specific programme offered by a Provider
<b>Satellite</b>	a satellite centre or assessment site approved by ILM as a satellite of the Centre/Provider
<b>Sensitive Personal Data</b>	data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purposes of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation, or details of any criminal convictions or offences alleged or committed
<b>To Sub-Contract</b>	to contract an organisation, or an individual who is not an employee of the Centre/Provider, to carry out all or any of the Centres'/Providers' obligations under, or other activities related to, this contract

## 2 Period of Contract

The contract between ILM and the Centre/Provider shall start on the Approval Date and continue in force until ILM or the Centre/Provider terminates the relationship in accordance with clause 11 (Termination).

## 3 Centre'/Providers' Obligations

- 3.1 The Centre/Provider shall:
- 3.1.1 comply with the Policies at all times
  - 3.1.2 comply at all times with all legislation and directives relevant to its obligations under this contract
  - 3.1.3 inform ILM in a timely manner of any changes to the information supplied to ILM in connection with its Centre/Provider or Qualification/Programme approval, or of any event which would enable ILM to terminate this contract under clauses 11.3.2 or 11.3.3
  - 3.1.4 upon reasonable request, provide to ILM and relevant regulators in a timely manner and at no charge (1) any information ILM asks for in order to check that the Centre/Provider has complied or is complying with its obligations and (2) access to premises of the Centre/Provider which are relevant to this contract

- 3.1.5 immediately disclose in writing to ILM any conflict of interest which arises or may arise between its status as a Centre/Provider and any other activities it may undertake
  - 3.1.6 not hold itself out as in any way entitled to bind ILM or enter into any contractual obligation on behalf of ILM
  - 3.1.7 not Sub-Contract to any third party all or any part of its obligations under this contract without the prior written consent of ILM, and if consent is given make good any loss suffered by ILM as a result of any action, failure to act, or negligence on the part of the sub-contractors in accordance with clause 9.4
  - 3.1.8 not assign or otherwise transfer or dispose of this contract or any of its rights, benefits or obligations under it (including its status as a Centre/Provider) in whole or in part without the prior written consent of ILM
  - 3.1.9 not offer, accept or receive, or agree to give any person, or agree to accept or receive from any person any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to the activities of the Centre/Provider as a Centre/Provider
  - 3.1.10 not offer or promote any ILM qualification, or state or imply that a programme offered by the Provider is recognised by ILM, without the prior written consent of ILM
  - 3.1.11 not operate a Satellite without the prior written consent of ILM. If consent is given the Centre/Provider shall (1) ensure that each Satellite complies with the provisions of this contract (2) actively monitor that it does so and (3) in accordance with clause 9.4 make good any loss to ILM as a result of any action, failure to act, or negligence on the part of each Satellite
  - 3.1.12 not offer any Qualifications/Programmes outside the original country of approval without the prior written consent of ILM.
- 3.2 The Centre/Provider warrants and undertakes to ILM that:
- 3.2.1 it is free to enter into this contract and is not bound by and not aware of any circumstances which would prevent it from complying with the terms on which it has been approved or recognised by ILM
  - 3.2.2 all information supplied by the Centre/Provider in connection with its Centre/Provider or Qualification/Programme approval is genuine and correct
  - 3.2.3 it is in compliance with all laws relevant to its status as a Centre/Provider
  - 3.2.4 it shall perform its obligations with due care, skill and diligence and ensure that its personnel have the necessary professional capabilities, qualifications, experience, skills and expertise to comply with its obligations under this contract

## 4 ILM's Obligations

ILM shall use its best endeavours to:

- 4.1 deal with the Centre/Provider in accordance with its ILM Customer Charter and Policies
- 4.2 provide reasonable guidance and support to the Centre/Provider on the delivery of Qualifications/Programmes including the administrative, assessment and quality assurance requirements necessary to ensure compliance with the criteria for Centre/Provider or Qualification/Programme approval

## 5 Fees

- 5.1 ILM reserves the right to review the Fees and shall inform Centre/Providers in writing of any changes. Changes in Fees will normally take effect from the beginning of a Financial Year but may take effect from any date
- 5.2 The Centre/Provider shall pay to ILM or its agent:
  - 5.2.1 the applicable Centre/Provider Approval Fees and Qualification/Programme Approval Fees, which shall be payable on a non-refundable basis as part of the approval process and in advance of any quality approval arrangements being made or approval being granted
  - 5.2.2 all other applicable Fees, which shall be payable in accordance with any relevant Policy or (in default of any such Policy) by direct debit or within 28 days of the date of invoice by BACS, credit or debit cards, Sterling Bank Draft or cheque
  - 5.2.3 in addition to the Fees, any applicable VAT or sales tax, which ILM shall add to its invoices at the appropriate rate
- 5.3 Any and all expenses, costs, and charges incurred by the Centre/Provider in the performance of its obligations under this contract shall be paid by the Centre/Provider unless ILM has expressly agreed beforehand in writing to pay such expenses, costs and charges
- 5.4 If the Centre/Provider fails to make any payment due to ILM under this contract by the due date, ILM reserves the right, in addition to its rights under clause 10 (Suspension) and clause 11 (Termination) to charge interest on the overdue amount at the rate of 4% per annum above the base rate of the Bank of England. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment
- 5.5 After the end of the first full Financial Year following approval, if the Centre/Provider fails to meet the minimum registration fee spend threshold as shown in the applicable Guide to Fees ("the minimum spend") in any Financial Year, ILM reserves the right to charge the Centre/Provider the difference between the actual spend and the minimum spend.

## 6 Intellectual Property Rights

- 6.1 The Intellectual Property Rights in and to the ILM logo, any other trade marks owned by ILM, and any materials provided to the Centre/Provider by or on behalf of ILM shall as between ILM and the Centre/Provider at all times remain the

property of ILM. They may be used, copied, reproduced or translated only in accordance with any relevant Policy or (in default of any such Policy) with the prior written permission of ILM and subject to any conditions stated in the Policy or permission.

- 6.2 The Intellectual Property Rights in and to any materials provided to ILM by or on behalf of the Centre/Provider shall as between ILM and the Centre/Provider at all times remain the property of the Centre/Provider. They may be used, copied, reproduced or translated only for the purposes of this contract and any relevant policy (including meeting any regulatory requirements) or with the prior written permission of the Centre/Provider and subject to any conditions stated in any relevant Policy or permission.
- 6.3 For the avoidance of doubt clause 6.1 applies to ILM materials such as reports and forms which have been completed by the Centre/Provider.

## 7 Data Protection

- 7.1 For the purposes of the Data Protection Legislation, ILM and the Centre/Provider are independent controllers of Personal Data, and each party must comply with its respective obligations under the Data Protection Legislation
- 7.2 In relation to Personal Data, the Centre/Provider must:
- 7.2.1 collect and transfer to ILM such Personal Data that ILM reasonably requires for the purposes of this contract, including
- Learner name, date of birth and gender;
  - information required in relation to a specific qualification or programme;
  - information required as part of ILM's quality assurance processes, an investigation, appeal, or complaint;
  - information required to determine and/or provide reasonable adjustments to a Learner;
- 7.2.2 inform its Learners in writing of the Personal Data that it collects and processes the purposes for which it is collected and processed (which shall include as the transfer of the Learner Personal Data to ILM for the purposes of this contract and as set out in the ILM Learner privacy policy located at <https://www.i-l-m.com/privacy/learnerpersonaldata>) in accordance with Article 13 and, where appropriate, Article 14 of the GDPR;
- 7.2.3 at the time of Learner registration, direct Learners to ILM's Learner privacy policy located at <https://www.i-l-m.com/privacy/learnerpersonaldata>
- 7.2.4 obtain the explicit consent (in accordance with the requirements relating to consent in Article 7 of the GDPR) to the transfer of his/her Sensitive Personal Data to ILM, and promptly provide ILM with relevant evidence of such consent on request.
- 7.3 If the Centre/Provider receives any complaint, notice, or communication which relates directly or indirectly to the processing of Personal Data by ILM, the Centre/Provider shall immediately notify ILM in writing and provide ILM with full co-operation and assistance in relation to investigating any such complaint, notice, or communication.

The Centre/Provider shall defend, indemnify and hold harmless ILM, and its subsidiaries, affiliates, and its respective officers, directors, employees, agents, successors and



permitted assigns (each, an “Indemnified Party”) from and against all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable legal and professional fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of or resulting from any third party claim against any Indemnified Party arising out of or resulting from the Centre's/Provider's failure to comply with Data Protection Legislation, including the data protection principles therein.

## 8 Confidentiality

ILM and the Centre/Provider shall:

- 8.1 keep each other's Confidential Information confidential
- 8.2 use each other's Confidential Information only as strictly necessary to perform its obligations under this contract
- 8.3 not disclose each other's Confidential Information except (1) to its employees, sub-contractors, or professional advisers who need to have such information or (2) as required by law, court order or any governmental or regulatory authority
- 8.4 ensure that the employees, sub-contractors, and professional advisers to whom it discloses the other's Confidential Information comply with obligations of confidentiality equivalent to those set out in this clause

## 9 Liability

- 9.1 Neither party shall be liable to each other for any delay or non-performance of its obligations under this contract to the extent that its performance is interrupted or prevented by anything beyond its reasonable control. Such delay or failure shall not be a breach of this contract and the time for performance shall be extended by a period equivalent to that during which performance is so interrupted or prevented
- 9.2 Nothing in this contract limits or excludes the liability of ILM or the Centre/Provider for death or personal injury, fraudulent misrepresentation or any other liability for which liability may not by law be limited or excluded
- 9.3 Subject to clauses 9.1 and 9.2
  - 9.3.1 ILM shall not be liable to the Centre/Provider for (1) loss of profits, business, anticipated savings, goods, or contract; (2) depletion of goodwill and/or similar losses; (3) loss or corruption of data or information or (4) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses
  - 9.3.2 if ILM's performance of its obligations under this contract is prevented or delayed by any act or omission of the Centre/Provider, its Satellites, agents, sub-contractors or employees, ILM shall not be liable for any costs, charges or losses incurred by the Centre/Provider that arise directly or indirectly from such prevention or delay
  - 9.3.3 the Centre/Provider acknowledges that if ILM exercises its rights under clause 10 (Suspension), ILM will accept no liability for any loss (whether direct or indirect) incurred by the Centre/Provider arising therefrom

9.3.4 the total liability of ILM to the Centre/Provider for any losses, damages, costs, claims, or expenses of any kind arising out of or in connection with this contract shall not exceed 125% of the Fees paid to ILM by the Centre/Provider in the 12 months immediately preceding the date on which liability arose

9.4 The Centre/Provider will make good any loss (including loss of reputation) which ILM suffers as a result of any action, failure to act, or negligence on the part of the Centre/Provider or its Satellites, employees, sub-contractors or agents

## 10 Suspension

10.1 ILM may serve a written notice to the Centre/Provider, at its sole discretion, to suspend its Centre/Provider status or its ability to offer any Qualifications/Programmes, in relation to the Centre/Provider itself and/or one or more of its Satellites, and for such period of time that ILM deems appropriate:

10.1.1 in the circumstances set out in any Policy: or

10.1.2 if the Centre/Provider fails to pay to ILM any charges when due in accordance with clause 5 unless they are subject to a bona fide dispute.

10.2 Suspension means that ILM may:

10.2.1 withhold processing of registrations and/or results and/or certificates; and/or

10.2.2 withhold the issue of or access to any materials created by or on behalf of ILM

## 11 Termination

11.1 Termination of this contract means that the Centre/Provider ceases to be a Centre or Provider (as the case may be) and is no longer entitled to offer Qualifications/Programmes and that any permissions granted under it automatically terminate

11.2 ILM and the Centre/Provider may terminate this contract for any reason by giving 3 months' written notice to the other

11.3 ILM may terminate this contract immediately on written notice:

11.3.1 if the Centre/Provider is in material or persistent breach of any of the terms of this contract and if the breach is capable of remedy has failed to remedy it within thirty (30) days of receiving a notice requiring it to do so, or within a reasonable shorter period specified in the notice; or

11.3.2 if the Centre/Provider ceases or threatens to cease to trade, or becomes bankrupt or makes any arrangement or composition with its creditors, or goes into liquidation, or has a receiver or manager appointed over its business or any of the property or assets of the business; or

11.3.3 if the Centre/Provider undergoes a change of control; or

- 11.3.4 if the Centre/Provider or its personnel commits or has committed any act of dishonesty or misconduct or engages or has engaged in any misconduct which in the reasonable opinion of ILM brings it into disrepute; or
  - 11.3.5 if the Centre/Provider has been subject to suspension of its status as a Centre/Provider for more than 90 days; or
  - 11.3.6 if the Centre/Provider has not registered any Learners with ILM for more than 2 consecutive Financial Years; or
  - 11.3.7 if the Centre/Provider has not been approved for 90 days or more to offer at least one qualification or programme which is open for registration
- 11.4 the Centre/Provider may terminate this contract on 30 days' written notice to ILM if it objects to any proposed amendments to the contract notified to it by ILM under clause 13.3
- 11.5 On termination of this contract (for whatever reason) the Centre/Provider shall:
- 11.5.1 securely destroy its Centre/Provider Approval plaque and/or certificate
  - 11.5.2 immediately and securely destroy all hard and soft copies of Confidential Information, reports, papers and other property or any media which belong to ILM and are in its possession or under its control
  - 11.5.3 immediately remove any trade marks owned by ILM (including the ILM logo) from its website and documentation
  - 11.5.4 immediately deliver to ILM any databases, records and materials created, compiled and/or obtained by the Centre or Provider in connection with this contract
  - 11.5.5 as soon as reasonably practical provide to ILM all information it reasonably requires whether for the protection of Learners or otherwise (including by way of example, Learners' names, addresses and contact details)
- 11.6 Termination of this contract (for whatever reason) shall be without prejudice to the accrued rights, remedies and obligations of ILM or the Centre/Provider
- 11.7 This clause and clauses 6 (IPRs), 7 (Data protection), 8 (Confidentiality), 9 (Liability) and 13.12 (governing law and jurisdiction) shall survive the termination of this contract (for whatever reason)

## 12 Withdrawal of Qualification or Programme Approval

- 12.1 Withdrawal of Qualification/Programme approval means that the Centre/Provider is no longer entitled to offer the specified Qualifications/Programmes, and that any permissions relating specifically to them automatically terminates.
- 12.2 ILM may withdraw Qualification/Programme approval for any reason by giving 90 days' written notice to the Centre/Provider.

- 12.3 ILM may:
- 12.3.1 immediately withdraw qualification approval on written notice if ILM decides to cease offering that qualification
  - 12.3.2 immediately withdraw qualification or programme approval on written notice in accordance with any Policy.
- 12.4 On withdrawal of Qualification/Programme approval (for whatever reason), the Centre/Provider shall:
- 12.4.1 immediately and securely destroy all hard and soft copies of Confidential Information, reports, papers and other property or any media which belong to ILM, relate solely to the specific Qualification/Programme, and are in its possession or under its control
  - 12.4.2 immediately deliver to ILM any databases, records and materials created, compiled and/or obtained by the Centre or Provider in connection with the specified Qualification/Programme and which are not covered by 12.4.1
  - 12.4.3 as soon as reasonably practical provide to ILM all information it reasonably requires in connection with the specified Qualification/Programme concerned whether for the protection of Learners or otherwise (including by way of example, Learners' names, addresses and contact details).
- 12.5 Withdrawal of Qualification/Programme approval (for whatever reason) shall be without prejudice to the accrued rights, remedies and obligations of ILM or the Centre/Provider in relation to the specified Qualification/Programme.

## 13 Other Provisions

- 13.1 Requests for permission or consent shall be sent to the Centre's/Provider's Quality and Compliance Manager, or if none to ILM Customer Service
- 13.2 Notices given under this contract shall be sent:
- 13.2.1 (if the Centre/Provider is based in the UK) by first class post which shall be deemed to be received on the next working day; or
  - 13.2.2 by electronic mail, which shall be deemed to be received on the date of delivery to a server accessible by the recipient and provided that on the same day the sender delivers the original signed notice to the recipient personally or despatches it to the recipient by commercial courier, or if both parties are based in the UK despatches it to the recipient by first class post or commercial courier

If deemed receipt is not within business hours (meaning 9am to 5pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice is deemed to have been received when business next starts in the place of receipt

- 13.3 ILM may amend this contract on 30 days' written notice to the Centre/Provider

- 13.4 This contract represents the entire agreement between ILM and the Centre/Provider in relation to the status of Centre/Provider and supersedes and invalidates all prior oral and written communications, understandings, representations or warranties (except those made fraudulently), and ILM and the Centre/Provider warrant to each other that it has not relied on any such communications, understandings, representations or warranties in entering into this contract
- 13.5 If any provision of this contract is found to be invalid, illegal or unenforceable, it shall apply with the minimum modification necessary to make it legal, valid or enforceable and the remainder of this contract shall not be affected
- 13.6 Nothing in this contract shall be construed as establishing or implying any partnership, joint venture, or any relationship of employment or of principal and agent, between ILM or the Centre/Provider
- 13.7 ILM may assign or otherwise transfer or dispose of this contract or any of its rights, benefits or obligations under it in whole or in part to any Group Company, and if it does so the Centre/Provider shall if required agree to release ILM from its obligations under this contract
- 13.8 No failure or delay by either ILM or the Centre/Provider to exercise any power or right under this contract shall operate as a waiver of it, nor shall any single or partial exercise of such rights or powers preclude any other or further exercise of the right or power
- 13.9 Any of the rights or remedies of ILM or the Centre/Provider under this contract may at any time be enforced separately or concurrently with any other rights and remedies whether under this contract or arising by operation of law with the effect that the rights and remedies are cumulative and not exclusive of each other
- 13.10 A person who is not a party to this contract shall have no rights to enforce any of its terms
- 13.11 If there is any conflict between this contract and any Policy, this contract shall prevail
- 13.12 This contract is governed by the law of England and Wales and subject to the non-exclusive jurisdiction of the Courts of England and Wales provided that ILM shall have the right to waive this provision and to take action against the Centre/Provider in any jurisdiction

## Useful Contacts

### ILM Customer Service

General enquiries

Events enquiries

International enquiries

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E: [customer@i-l-m.com](mailto:customer@i-l-m.com)

### Complaints and feedback

Complaints and feedback

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E: [customer@i-l-m.com](mailto:customer@i-l-m.com)

### ILM Regulation and Compliance

Reporting malpractice/maladministration

Reporting incidents of plagiarism

Lodging appeals

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E: [ILMregulation@i-l-m.com](mailto:ILMregulation@i-l-m.com)

### ILM Assessment

Lodging Enquiries

Requests for Special Consideration

Request for Access Arrangements

E: [ilmassessmentpolicy@i-l-m.com](mailto:ilmassessmentpolicy@i-l-m.com)

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