

QUALITY STANDARDS AGREEMENT
Annex 2 to Report 12

Dated _____ 2001

(1) **e LEARNING HOLDING COMPANY LIMITED**

- and -

(2) **UK eUNIVERSITIES WORLDWIDE LIMITED**

Quality Standards Agreement

DRAFT - NOT AVAILABLE FOR ACCEPTANCE



100 Fetter Lane London EC4A 1BN
Tel: 020 7242 1011 Fax: 020 7831 6630
DX 45 London

THIS AGREEMENT is made the day of2001

BETWEEN:

- (1) **e LEARNING HOLDING COMPANY LIMITED** of ("**e Learning**")
- (2) **UK eUNIVERSITIES WORLDWIDE LIMITED** of ("**eUniversities**")

RECITALS:

- (A) Whereas e Learning has licensed certain intellectual property to eUniversities under the terms of the Licence Agreement (as hereinafter defined); and
- (B) the Licence Agreement requires eUniversities to establish a Committee for Academic Quality and to take certain steps to secure quality and standards in eUniversities' activities;

NOW IT IS HEREBY AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement the following terms have the meanings set opposite them in the table below.

Commencement Date	means the date of this Agreement
Committee	means the Committee for Academic Quality referred to in the Licence Agreement whose constitution and functions are set out in this Agreement
Licence Agreement	means the agreement entitled "Licence Agreement" between e Learning and eUniversities of even date herewith
Licensed Services	has the same meaning as is given to it in the Licence Agreement
Quality Standards	means all of the standards and requirements for the Licensed Services which are promulgated by the Committee and approved by e Learning as amended and updated from time to time

Trade Marks	has the same meaning as is given to it in the Licence Agreement
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- 1.2 In this Agreement, a reference to:
- 1.2.1 a programme includes a reference to a course, subject, module or unit;
 - 1.2.2 a person includes a reference to a body corporate, association or partnership;
 - 1.2.3 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
 - 1.2.4 a word importing the singular includes the plural and vice versa;
 - 1.2.5 A word implying one gender includes all genders;
 - 1.2.6 a person includes a reference to that person's legal personal representatives, successors and permitted assigns; and
 - 1.2.7 a Recital, Clause or Schedule, unless the context otherwise requires, is a reference to a Recital or Clause of or Schedule to this Agreement.
- 1.3 The headings in this Agreement do not affect its interpretation.

2. PRINCIPAL OBLIGATIONS

- 2.1 In consideration of the obligations entered into under this and the Licence Agreement, the parties shall have the following principal obligations:
- 2.1.1 eUniversities shall establish and maintain the Committee.
 - 2.1.2 The Committee shall carry out the functions ascribed to it under this Agreement.
 - 2.1.3 Save where the Committee has failed to observe Schedule 3 eUniversities shall act in accordance with the decisions of the Committee as to whether any programme or service has satisfied the Quality Standards given under this Agreement, and shall give reasons to the Committee and to e Learning when it does not so act.
 - 2.1.4 e Learning shall carry out the functions ascribed to it under this Agreement.
- 2.2 In this Agreement any reference to an obligation or function of the Committee shall

include an obligation on the part of eUniversities to ensure that the Committee is able to and does carry out the obligation or function in question.

3. ESTABLISHMENT OF THE COMMITTEE

- 3.1 The Committee shall be established within three months of the Commencement Date.
- 3.2 The constitution of the Committee shall be as set out in Schedule 1. Members of the Committee shall be appointed by eUniversities subject to the prior written approval of e Learning, given or withheld in its reasonably exercised discretion.
- 3.3 eUniversities and e Learning will use their best endeavours to ensure that the members of the Committee shall be suitably experienced and skilled having regard to the functions of the Committee under this Agreement.
- 3.4 Members of the Committee shall serve in accordance with the terms and conditions of their appointment, which shall be determined by eUniversities subject to the confirmation of e Learning in its reasonably exercised discretion. Members of the Committee shall be appointed for not less than two and not more than five year terms, and shall be eligible for reappointment. Members of the Committee shall only be liable to be removed from the Committee before the expiry of their term of appointment for such causes as may be stated in the terms and conditions of their appointment, which causes, for the avoidance of doubt, shall be subject to the approval of e Learning. Any such removal shall be at the instigation of eUniversities and subject to the approval of e Learning which shall not be unreasonably withheld or delayed.
- 3.5 All of the expenses of establishing and running the Committee, including the reasonable remuneration of the members of the Committee, shall be borne by eUniversities. eUniversities shall provide whatever facilities are reasonably requested by the Committee for the exercise of its functions.
- 3.6 The Chair of the Committee shall have the right to receive notice of, to attend and speak at, but not to vote at meetings of eUniversities' members or Board of Directors or any committee of the Board of Directors of eUniversities. The Chief Executive Officer and the Director of Learning Programmes of eUniversities shall have the right to attend meetings of the Committee.

4. FUNCTIONS AND ACTIVITIES OF THE COMMITTEE

- 4.1 Subject to eUniversities observing the provisions of clause 3.5 above the Committee shall carry out the functions set out in Schedule 2.
- 4.2 In carrying out the functions set out in Schedule 2 the Committee shall observe the

standards set out in Schedule 3.

5. EUNIVERSITIES' RESPONSIBILITIES

- 5.1 eUniversities shall ensure that the Licensed Services are certified by the Committee as complying with the Quality Standards and shall not provide any Licensed Services which are not so certified.
- 5.2 eUniversities shall cooperate with the Committee in its discharge of the functions set out in Schedule 2.

6. E LEARNING'S RIGHTS

- 6.1 The Committee shall draw up Quality Standards for the Licensed Services, which shall be subject to the approvals of e Learning and eUniversities. The Committee shall draw up protocols which the Committee shall follow in determining whether the Licensed Services comply with the Quality Standards, and shall submit the Quality protocols to e Learning and to eUniversities for their approval. No Quality Standards or protocols shall be valid or used if e Learning or eUniversities (acting promptly) notifies the Committee that they are not adequate.
- 6.2 The protocols referred to in clause 6.1 above shall, so far as reasonably possible, provide for the Committee to evaluate and approve Licensed Services and proposals for Licensed Services in stages and/or conditionally or in principle, so that the Committee may express an opinion on any Licensed Service or proposal for a Licensed Service, on which eUniversities may rely, in advance of eUniversities incurring the majority of the costs of creating a new Licensed Service.
- 6.3 Save in the case of manifest error or unreasonableness and without prejudice to clause 2.1.3 e Learning shall accept any determination of the Committee reached when carrying out its functions under Schedule 2.
- 6.4 The Committee shall submit an annual report to eUniversities on its functions, detailing in particular the Quality Standards applied, the operation of the protocols referred to in clause 6.1 above, and the judgements reached by the Committee during the preceding year, which report shall also be submitted to e Learning. The report shall include details of any instance where eUniversities did not act in accordance with the decisions of the Committee given under this Agreement, and shall give the reasons eUniversities chose not to do so. e Learning shall be entitled to satisfy itself that the Quality Standards and the protocols which it has approved have been applied by the Committee.

7. TERMINATION

- 7.1 This Agreement shall remain in force for so long as the Licence Agreement is in force, and shall terminate on the termination of the Licence Agreement howsoever caused.
- 7.2 Termination of this Agreement shall be without prejudice to the rights liabilities and obligations of the parties subsisting immediately prior to termination.

8. GENERAL

- 8.1 Save as expressly permitted elsewhere in this Agreement, the parties shall not be entitled to assign or transfer or purport to assign or transfer any of their rights or obligations under this Agreement.
- 8.2 A variation of this Agreement is valid only if it is in writing and signed by or on behalf of each party.
- 8.3 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy or the exercise of another right or remedy.
- 8.4 The rights and remedies contained in this Agreement are cumulative and not exclusive of rights or remedies provided by law.
- 8.5 If any term or provision in this Agreement shall be held to be invalid, illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part shall to that extent be deemed not to form part of this Agreement but the validity and enforceability of the remainder of this Agreement shall not be affected.
- 8.6 Each party shall from time to time upon the request of the other party execute any additional documents and do any other acts or things which may reasonably be required to give effect to the purposes of this Agreement.
- 8.7 The parties are independent contractors under this Agreement, and nothing contained in it is intended nor is to be construed as creating any kind of partnership or joint venture or relationship of principal and agent or employer and employee between the parties in relation to this Agreement. Neither e Learning nor eUniversities shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other or to bind the other to any contract or agreement or undertaking whatsoever.

9. NOTICES

9.1 A notice or other communication under or in connection with this Agreement shall be in writing and may be delivered personally or sent by first class post pre-paid recorded delivery or by fax to the party due to receive the notice or communication at the address set out at the head of this Agreement or another address or fax number specified by that party by written notice to the other addressed to the Company Secretary.

9.2 In the absence of evidence of earlier receipt, any notice or other communication is deemed to have been duly given:

9.2.1 if delivered personally, when left at the address referred to in Clause 9.1;

9.2.2 if sent by post, two days after posting it;

9.2.3 if sent by fax, on completion of its transmission.

9.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted or that the fax was addressed and dispatched (and dispatch of the transmission confirmed) as the case may be.

10. GOVERNING LAW AND JURISDICTION

10.1 This Agreement is governed by, and shall be construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English courts.

SIGNATURE PAGE

SIGNED by
 for and on behalf of **e Learning** (Signature)
 (Date)

WITNESS:
 Signature
 Name
 Address

 Occupation
 (PLEASE COMPLETE IN CAPITALS)

SIGNED by
 for and on behalf of **eUniversities** (Signature)
 (Date)

WITNESS:
 Signature
 Name
 Address

 Occupation
 (PLEASE COMPLETE IN CAPITALS)

SCHEDULE 1 Committee Constitution

The constitution of the Committee shall be as follows:

Composition

1. The Committee shall consist of no fewer than nine and no more than fifteen members. Members of the Committee shall be appointed by eUniversities, subject to the approval of eLearning. Members of the Committee shall be chosen for their expertise, experience and reputation in matters falling within the Committee's remit. At least two thirds of the members of the Committee shall be drawn from the members of eLearning ("HEI members").
2. Members of the Committee shall serve in accordance with the terms and conditions of their appointment, which shall be determined by eUniversities subject to the confirmation of e Learning in its reasonably exercised discretion. Members of the Committee shall be appointed for not less than two and not more than five year terms, and shall be eligible for reappointment.
3. A member of the Committee shall immediately cease to be a member if:
 - 3.1 he is declared bankrupt or makes any arrangement or composition with his creditors generally;
 - 3.2 he becomes of unsound mind or is similarly incapable of fulfilling the role of member
 - 3.3 without prior permission, he fails to attend any meeting of the Committee or of any of its subcommittees for a continuous period in excess of six months.
 - 3.4 he resigns by written notice delivered to eUniversities.
4. Members shall otherwise only be liable to be removed from the Committee before the expiry of their term of appointment for such causes as may be stated in the terms and conditions of their appointment, which causes shall be subject to the approval of e Learning. Any such removal shall also be subject to the approval of e Learning which shall not be unreasonably withheld or delayed.
5. One of the members of the Committee shall be designated the Chair of the committee by eUniversities (subject to the approval of e Learning). The Chair of the Committee shall nominate one or more members of the Committee to be deputy chairs.
6. The Committee may appoint assessors to assist it with the discharge of any of its functions. Assessors shall have an advisory role only.

Meetings

7. The Committee shall meet together at least three times a year (and more frequently as it thinks fit) for the dispatch of business and may adjourn and regulate its meetings as it thinks fit.
8. The Chair of the Committee may, and on receipt of written requests from not less than one third of the members of the Committee shall, convene a meeting of the Committee in addition to any meetings scheduled by the Committee itself under paragraph 7 above on giving members not less than three weeks notice in writing. A member of the Committee who is absent from the United Kingdom shall only be entitled to receive notice of any meeting if he has provided the Chair of the Committee with an address for service within the United

Kingdom.

9. No meeting of the Committee shall be quorate unless half of the members of the Committee are in attendance and half of the members in attendance are HEI members. A member shall be treated as being in attendance notwithstanding that he is not physically present if he is in communication with the meeting by voice or video communication link provided that that link is so arranged that it is possible for the member to hear and be heard by, or as the case may be see and be seen by, each other person participating in the meeting, and the term "meeting" shall be construed accordingly.
10. The chair of the Committee shall preside at meetings of the committee, or in his absence any deputy chair shall so preside, but if the chair and any deputy chairs are absent from or unwilling to preside over any meeting then the members present shall choose one from their number to preside over that meeting.
11. Questions arising at any meeting shall be resolved by discussion and consensus wherever possible, but if this is not possible then the question will be decided by a majority of votes, each member present having one vote. In the event of an equality of votes the chair shall not have a second or casting vote and the resolution shall not be passed.
12. A resolution in writing signed by all of the members of the Committee entitled to receive notice of a meeting of the Committee shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted.
13. All acts done bona fide by any meeting of the Committee or any person acting on the Committee's behalf shall be valid and effectual notwithstanding the fact that it may later be discovered that there was some defect in the appointment or continuance in office of any member of the Committee or that the transmission of notice of the meeting given to any member or members entitled to receive notice failed for any reason outside the control and knowledge of the person giving notice.
14. The Committee shall cause proper minutes to be made of all proceedings of the Committee, and such minutes, if signed by the chair of the meeting in question, shall be sufficient evidence of the matters stated therein.

Delegation

15. The Committee may delegate any of its functions to subcommittees established pursuant to a resolution of the Committee. Such subcommittees shall consist of such persons as the Committee thinks fit, provided that at least half of the members of any subcommittee shall be members of the Committee. Any subcommittee so formed shall conform to all regulations imposed upon it by the Committee, and to the provisions of this Schedule applied (*mutatis mutandis*) to the subcommittee as they apply to the Committee, but shall otherwise be free to regulate its own procedure as it thinks fit. The acts and proceedings of any subcommittee shall be fully reported to the Committee.

Amendment

16. This schedule may be amended by resolution of two thirds of the members of the Committee entitled to receive notice of any meeting of the Committee, provided that no such amendment shall have effect unless approved in writing by e Learning.

SCHEDULE 2

Functions

The functions of the Committee are:

1. To draw up and (subject to approval by e Learning and eUniversities under clause 6.1 above) publish Quality Standards for the Licensed Services. Without prejudice to the generality of the foregoing, the Quality Standards may include without limitation standards for programme syllabus, admission criteria, admission procedures, content, presentation, pedagogical methodologies, student support, tutorial support, standards of academic achievement, record keeping, assessment methods, and learning outcomes.
2. To draw up, in accordance with clause 6, and publish protocols criteria and procedures under which any programme or service which it is proposed should form part of the Licensed Services shall be considered for certification by the Committee as complying with the Quality Standards.
3. to consider and advise on the academic development strategy for eUniversities which eUniversities shall have prepared as part of its overall business plan. The strategy shall be adopted by eUniversities after consultation with e Learning. The strategy shall consider the overall balance of the Licensed Services being provided by eUniversities, in terms of the range of subjects, levels and methods of study, and how it should be developed over a five year period in pursuance of the objectives of the eUniversities and in accordance with the terms of the Licence Agreement.
4. To consider any programme or service or proposal for any programme or service submitted to it by eUniversities for certification as complying with the Quality Standards, to consider such certification in accordance with the criteria and procedures which it has published in that regard, and to certify those programmes and services which do meet the Quality Standards for the stated lifetime of that programme or service. In accordance with clause 6, such certification may be given in stages and/or conditionally or in principle.
5. To advise eUniversities on the reasons for the failure of any programme or service to comply with the Quality Standards
6. To keep Quality Standards under review and (subject approval by e Learning and eUniversities under clause 6.1 above and on appropriate notice) to revise and update Quality Standards as the Committee thinks fit, and to reconsider and reassess any programmes or services certified as having met the Quality Standards in their earlier form once the lifetime of those programmes or services in that form has expired . The introduction of revised and updated Quality Standards shall have due regard to any need to plan for and introduce changes to the Licensed Services as a result, and no revision of the Quality Standards shall have retrospective effect.
7. To keep quality protocols under review and (subject to approval by e Learning and eUniversities under clause 6.1 above and on appropriate notice) to revise and update quality protocols as the Committee thinks fit. The introduction of revised and updated quality protocols shall have due regard to any need to plan for and introduce changes to the Licensed Services as a result, and no revision of the quality protocols shall have retrospective effect.
8. To advise eUniversities as it may request or as seems desirable to the Committee on matters relating to the Quality Standards.
9. To draw up and publish a timetable for review of those programmes or services certified as complying with the Quality Standards, and criteria and procedures which will apply to such reviews.

10. To carry out reviews under paragraph 9 above, to continue to certify those programmes or services which continue to comply with the Quality Standards, and to cease to certify those programmes which do not.
11. To collect and to monitor data relating to the quality of the Licensed Services as e Learning may request of the eUniversities, and to supply the eUniversities with such data to transmit to e Learning.
12. To make such reports to e Learning via the eUniversities as e Learning may from time to time request from the eUniversities, including a report not less than once each year on the exercise by the Committee of its functions under this Schedule whether requested or not, and to carry out such investigations and to make such recommendations on matters connected with its functions under this Schedule as e Learning may from time to time require of the eUniversities.
13. To carry out such other functions as the parties may from time to time agree in writing.

SCHEDULE 3

Standards

In exercising its functions under Schedule 2 the Committee shall adhere to the following standards:

1. **Quality:** The Committee shall reflect and contribute to the high quality and standards generally accepted in the United Kingdom higher education sector and shall do nothing to the detriment of the reputation of that sector
2. **Probity:** The Committee shall act in accordance with the highest standards of probity and integrity in public life
3. **Independence:** The Committee shall have regard only to relevant matters in carrying out its functions
4. **Inclusiveness:** The Committee shall consider the interests of all stakeholders in exercising its functions, including eUniversities and its shareholders, actual and prospective students, the higher education community, and actual and prospective employers of students
5. **Responsiveness:** The Committee shall conduct itself in a businesslike manner and shall not unnecessarily delay in the exercise of any of its functions
6. **Academic Freedoms:** The Committee shall respect, uphold and promote academic freedom and shall have due regard to the need for scholars, students and others to be free to put forward unpopular ideas and to challenge received wisdom
7. **Transparency:** The Committee shall be able to demonstrate its adherence to these standards and shall conduct its affairs in as open and transparent a fashion as possible.