

THIS CONTRACT is made the **xxxx 2018** and shall continue until **xxxx 2021**.

BETWEEN

(1) The Mayor and Burgesses of the London Borough of Lambeth of Lambeth Town Hall, Brixton Hill, London SW2 1RW. (the Council)

AND

(2) the Service Provider, [address] (“the Service Provider”)

1 Appointment

The Council engages the Service Provider to provide e-learning content services.

(CONDITIONS OF CONTRACT)

2 Definitions & Interpretations

2.1 Definitions

Contract	means the Contract entered into by the Council and the Service Provider embodied in the Conditions of Contract and schedules
Contract Standard	means such standards as complies with all relevant provisions of the Contract and where to the extent that no criteria are stated in the Contract the standard is to be to the satisfaction of the Authorised Officer.
Schedules	mean the Schedules attached to these Conditions
Services	means [...] as described in any briefs, schedules and appendices attached hereto.

2.2 Interpretations

Words in the singular include the plural and vice versa;
Words in the masculine include words in the feminine and vice versa
Words importing individuals shall be treated as importing corporations and vice versa;
Headings are for reference only and shall not affect the construction of the Contract;

3 The Service Provider's obligations

- 3.1 The Service Provider shall devote such of his time attention and abilities to the provision of the Services in these Conditions and Schedules to the best professional standards and in accordance with current laws, statutory instruments, rules, regulations and bylaws.
- 3.2 The Service Provider shall comply with the reasonable direction of the Authorised Officer and use his best endeavours to provide the Service
- 3.3 The Service Provider shall at all times comply with the requirements of Health and Safety legislation and regulations and shall not risk the health and safety of others.
- 3.4 The Service Provider shall co-operate with any staff or sub-contractor employed directly or indirectly by the Council and shall undertake the Services at no detriment to any other service provided by or on behalf of the Council.

4 The Council's obligations

- 4.1 The Council shall fulfil its obligations to the Service Provider and shall pay the Service Provider in accordance with Schedule 2.

5 VAT

5.1 All sums, unless otherwise stated, are exclusive of VAT and other duties or taxes

6 Confidentiality

6.1 The Service Provider shall not at any time during or after the Term divulge or allow to be divulged to any person any confidential information.

7 Indemnity

7.1 The Service Provider shall indemnify and keep indemnified the Council from and against any and all loss damage or liability (whether criminal or civil) resulting from the Service Provider's breach.

7.2 The Council shall not be liable to the Service Provider for the death of or injury or loss or damage to property unless due to the negligence of the Council or its servants or agents.

7.3 The Council shall not be liable for any consequential losses, including but not exclusively, loss of profit, earning, income, business, goodwill, savings opportunities, reputation or associated costs to the Service Provider howsoever caused.

8 Insurance

8.1 The Service Provider shall maintain at its own cost a policy of insurance to cover its liability in respect of any act or default for which it may become liable to indemnify the Council under the terms of this Contract in the following minimum sums:

(a) Employers' liability of £10,000,000 (ten million)

(b) Public liability of £5,000,000 (five million)

(c) Professional indemnity of £2,000,000 (2 million)

8.2 The Service Provider shall provide the insurance policies to the Authorised Officer on request.

9 Authorised Officer

9.1 The Authorised Officer shall be the Head of Organisational Development & Learning or such other person nominated in writing by the Council to act in the name of the Council for the purposes of the Contract.

10 Monitoring of the Contract

10.1 The Service Provider shall provide the Authorised Officer with any information relating to the carrying out of the Services which the Authorised Officer may reasonably request.

10.4 The Council shall be entitled to implement systematic and/or random inspection to ensure that the Service Provider undertakes the Services to the Contract Standard.

11 Termination

11.1 The Council reserves the right to terminate this Contract by giving 30 day's written notice.

11.2 The Council may terminate the Contract forthwith if it is of the reasonable opinion that the Service Provider:

(a) is in default in the performance of the Contract.

(b) has failed to undertake the Services specified in the Contract or has failed to do so to the Contract Standard and beyond remedy.

(c) has attempted to offer a reward contrary to the Bribery Act 2010 or any other relevant statute.

12 Termination consequences

12.1 In the event that the Contract is terminated pursuant to this condition 12 the Council will not be obliged to pay to the Service Provider any further sums other than those lawfully owing.

13 Intellectual Property and Delivery up of documents on termination

13.1 The Service Provider agrees that the Council shall own all reports and other documents and all other intellectual property produced by the Service Provider under this Contract and shall own all publication rights. The Service Provider shall indemnify the Council against all costs

and damages associated with infringements of intellectual property rights in relation to the Services provided by the Service Provider.

14 Status of the Service Provider

14.1 During the Term the Service Provider shall not be or purport to be an employee or agent of the Council

15 Anti-fraud

15.1 The Service Provider shall be aware of the Council's anti-fraud policies and shall report any suspicions of corruption by employees abusing their position, and by others, to the Chief Internal Auditor, Olive Morris House, Brixton Hill London SW2 1RW

16 Criminal Records Bureau

16.1 The Service Provider warrants that its staff are fit and proper persons to undertake the Services and that any staff members who regularly work with vulnerable persons have undergone enhanced Criminal Records Bureau checks and that the results of those checks were satisfactory

16.1 The Service Provider shall provide the original of the Criminal Records Bureau check to the Authorised Officer on request

17 Variations

17.1 The Authorised Officer may from time to time request the Service Provider to agree to provide additional, different or reduced levels of Services.

17.3 The Service Provider shall not vary the services without the written authority of the Authorised Officer.

18 Data Protection and Freedom of Information

18.1 The Service Provider shall lawfully process data relating to this Contract in accordance with the provisions of the Data Protection Act 1998 and General Data Protection Regulations 2018 as set out in the GDPR Schedule below, and shall cooperate with the Council in respect of a Freedom of Information Act 2000 request.

19.0 Equal Opportunities

19.1 The Service Provider shall use all reasonable endeavours to comply with all statutory provisions, rules and regulations relating to equality and discrimination.

19.2 In the event that any finding of unlawful discrimination by the Service Provider during the Contract period, the Service Provider shall inform the Council the steps it proposes to take to prevent repetition of the unlawful discrimination.

20 Complaints in Respect of Service Provision

20.1 The Service Provider shall outline the system proposed for dealing with complaints from members of the public, Council officers and members.

21 Disputes

21.1 The parties shall attempt to resolve any disputes or differences and where necessary seek to resolve them by using an alternative dispute resolution procedure.

22 Waiver

22.1 Failure by either party to enforce any of the terms or conditions of this Contract shall not be a waiver of them, nor shall such failure create an estoppel.

23 Supersedes prior Agreements

23.1 This Contract supersedes any prior contracts or agreements between the parties to undertake the Services whether written or oral and any such prior contracts or agreements are cancelled as at the date of signing of this contract but without prejudice to any rights that have already accrued to either of the parties

24 Entire Agreement

24.1 Each party agrees that this Contract, its schedules and any agreed amendments or variations contains the whole agreement between parties relating to the subject matter of the Contract.

25 Notices

25.1 Notices and other communications shall be delivered to the addresses stated in this Contract or as otherwise agreed in writing.

26 Governing Law

26.1 This Contract shall be governed by English law

27 Third Parties

27.1 The Contract (Rights of Third Parties) Act 1999 are expressly excluded from this Contract.

Signed for and on behalf of the Council

Print name

Signature

Print name

Signature

Signed for and on behalf of the Service Provider

Print Name

Signature

SCHEDULE 1 – THE SERVICES

Lambeth council is modernising the way it delivers learning to its workforce. Based around our new learning management system, we are aiming to increase our fully-blended learning options and enable our workforce to embrace self-directed and technology based learning in addition to shorter, bite-size learning. The HR Organisational Development & Learning team require a package of e-learning content to complement our other methods of training delivery, which meets the needs of all staff groups within the council. These groups the whole range of professional disciplines found in a large inner city local authority, including social care, housing and corporate staff and each has specific learning relating to their area of work. To deliver relevant learning materials for these groups, we require some 'off-the-shelf' catalogues relating to health, social care, welfare benefits, housing, procurement, customer care, equalities, leadership and soft skills, all of which should be customisable to suit Lambeth's branding and policies. Furthermore, we require the ability to produce bespoke learning, specific to Lambeth.

Description (Specification)

Lambeth have recently upgraded the in-house Learning Management System (LMS) to Oracle Fusion Learn, a cloud based system which will form the single point of access for all learning activities for the council's own workforce and that of our local partners. The package must meet the following requirements:

- It must be SCORM 1.2 compliant – **essential**.
- Content must be compatible with Cloud Oracle – **essential**.
- Integration capability with other solution like Oracle Cloud via standard API – **essential**.
- 'Off-the-shelf' content must have a UK based focus (e.g. legislation) on public service including health, social care, welfare benefits, housing, neighbourhoods, leadership and soft skills – **essential**.
- Content should be fully customisable so that content can reflect Lambeth branding and policies – **essential**.
- Modules must be compatible with accessibility software used in Lambeth (JAWS for staff with visual impairments and each module should be accompanied by a transcript for staff with hearing impairments) – **essential**.
- To provide Lambeth with a platform for developing in-house SCORM content – **essential**
- Content should automatically update to reflect changes in macro-environment (e.g. legislation, technology, etc.) – **essential**

There is an expectation that all content is delivered using current L&D theory in short, engaging modules. Learning should be presented in bitesize chunks, and be available at the point in workflow that is most impactful. Learning & Development team should be able to track completion data for insight into trends.

Learning should develop competencies for future roles with an emphasis on strengthening people skills.

Some titles that we would expect to find in the 'off-the-shelf' catalogue would include, but not be restricted to:

- Safeguarding Adults
- Safeguarding Children
- Mental Capacity Act
- Domestic Violence

- Modern Slavery
- FGM
- Self-neglect
- Deprivation of Liberty Safeguards
- CSE
- Welfare Benefits – Universal Credit
- Introduction to Procurement
- Customer Care
- Equalities
- Leadership
- Unconscious bias
- Soft Skills (e.g. communication, report writing, presentation skills, etc.)
- Information Governance
- Information Security

The timeline to implementation is as follows:

Milestone	Description	Timeframe
1	The deadline to submit clarification questions	By midday on 22 nd June 2018
2	The deadline to submit responses	By 5pm on 30 th June 2018
3	Contract to be awarded	w/c 9 th July 2018
4	Content to be available on Lambeth LMS	By 1 st August 2018
5	Evaluation of completion rate / level 1 feedback	3 months / 6 months / 12 months from implementation

SCHEDULE 2 - INVOICING

Payment Terms

1. The Council operates an electronic only policy for issuing Purchase Orders and receiving Invoices from Service Providers. Service Providers are therefore required to operate in the same way in order to work with the Council.
2. The Council manages Purchases Orders and Invoices electronically through an electronic portal on the internet provided by a third party in partnership with the Council.
3. The electronic portal is offered free of charge to a Service Provider by the Council. The Council will direct the third party partner to make contact with the Service Provider for the Service Provider to create an account within the electronic portal to enable them to operate electronically with the Council.
4. The Service Provider will be able to view their Purchase Orders and the status of their Invoices within the electronic portal in real time.
5. Both the Council and the Service Provider shall adhere to the following procedure in respect of invoicing and payments in respect of the Services:-
 - (a) The Service Provider shall submit to the Council each month (or as otherwise agreed by the Parties in writing) an invoice, by electronic means through the portal only setting out the sums for each type of work together with a record detailing the work carried out, in accordance with the prices tendered and;
 - (b) Once the Council agrees the details of the electronic invoice and the work record it will arrange payment, which will be made within a 30 days of invoice date unless disputed by the Council.
 - (c) Where the Council disputes the amounts entered on an invoice the parties shall discuss the differences and the Service Provider shall submit such further information as required by the Council to verify the invoice sum.
 - (d) Once agreed, the Service Provider shall submit a corrected Invoice as agreed pursuant to Condition 5.1(a), above.
6. Where the Service Provider fails to submit its invoices electronically through the portal the timescale in 5(b) will necessarily increase.

SCHEDULE 3 – GDPR

Part 1

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer take the meaning given in the GDPR;

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Service Provider under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

Data Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Law to access their Personal Data;

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;

Sub-processor: any third party appointed to process Personal Data on behalf of the Service Provider related to this Agreement;

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Law, the Council is the Controller and the Service Provider is the Processor. The only processing that the Service Provider is authorised to do is listed in Part 2 of this Schedule by the Council and may not be determined by the Service Provider.
- 1.2 The Service Provider shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Law.
- 1.3 The Service Provider shall provide all reasonable assistance to the Council in the preparation of any data protection impact assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:
 - a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - d) the measures envisaged to address the risks, including safeguards, security;
 - e) measures and mechanisms to ensure the protection of Personal Data.

- 1.4 The Service Provider shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- a) process that Personal Data only in accordance with Data Protection Law;
 - b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - c) ensure that :
 - (i) the Service Provider Personnel do not process Personal Data except in accordance with this Agreement (and in particular Part 2 of this appendix)
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Service Provider Personnel who have access to the Personal Data and ensure that they:
 - A. are aware of and comply with the Service Provider's duties under this clause;
 - B. are subject to appropriate confidentiality undertakings with the Service Provider or any Sub-processor;
 - C. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement; and
 - D. have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - d) not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
 - (i) the Council or the Service Provider has provided appropriate safeguards in relation to the transfer as determined by the Council;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Service Provider complies with its obligations under the Data Protection Law by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
 - (iv) the Service Provider complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
 - e) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Service Provider is required by law to retain the Personal Data.

- 1.5 Subject to clause A1.6, the Service Provider shall notify the Council immediately if it:
- a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - b) receives a request to rectify, block or erase any Personal Data;
 - c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Law;
 - d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law; or
 - f) becomes aware of a Data Loss Event.
- 1.6 The Service Provider's obligation to notify under clause A1.5 shall include the provision of further information to the Council in phases, as details become available.
- 1.7 Taking into account the nature of the processing, the Service Provider shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Law and any complaint, communication or request made under clause A1.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:
- a) the Council with full details and copies of the complaint, communication or request;
 - b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Law;
 - c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
 - d) assistance as requested by the Council following any Data Loss Event;
 - e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.
- 1.8 The Service Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Service Provider employs fewer than 250 staff, unless:
- a) the Council determines that the processing is not occasional;

- b) the Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Service Provider shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.
- 1.10 The Service Provider shall designate a data protection officer if required by the Data Protection Law.
- 1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Service Provider must:
- a) notify the Council in writing of the intended Sub-processor and processing;
 - b) obtain the written consent of the Council;
 - c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause A1.11 such that they apply to the Sub-processor; and
 - d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require;
- 1.12 The Service Provider shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.13 The Service Provider may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than 30 days' notice to the Service Provider amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Part 2

Schedule of Processing, Personal Data and Data Subjects

1. The Service Provider shall comply with any further written instructions with respect to processing by the Council.

2. Any such further instructions shall be incorporated into this Schedule.

the subject matter	Data to enable professional training agencies to train Adult Learners on behalf of the Council
duration of the processing	Term of the contract (insert dates)
the nature of the processing	Data processed into databases (name databases)
purpose of the processing	(please complete)
the type of personal data	(please complete)
categories of data subject	(please complete)